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TO THE

EXECUTIVE DOCUMENTS

OF THE

HOUSE OF REPRESENTATIVES

FOR THE

SECOND SESSION OF THE FIFTIETH CONGRESS,

1888-'89.

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INDEX TO EXECUTIVE DOCUMENTS OF HOUSE OF REPRESENTATIVES.

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PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

THE UNITED STATES,

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 3, 1888,

PRECEDED BY A

LIST OF PAPERS, WITH SYNOPSES OF THEIR CONTENTS, AND FOLLOWED BY AN ALPHABETICAL INDEX OF SUBJECTS.

PART I.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1889.

MESSAGE.

To the Congress of the United States:

As you assemble for the discharge of the duties you have assumed as the representatives of a free and generous people, your meeting is marked by an interesting and impressive incident. With the expiration of the present session of the Congress, the first century of our constitutional existence as a nation will be completed.

Our survival for one hundred years is not sufficient to assure us that we no longer have dangers to fear in the maintenance, with all its promised blessings, of a government founded upon the freedom of the people. The time rather admonishes us to soberly inquire whether in the past we have always closely kept in the course of safety, and whether we have before us a way plain and clear which leads to happiness and perpetuity.

When the experiment of our Government was undertaken, the chart adopted for our guidance was the Constitution. Departure from the lines there laid down is failure. It is only by a strict adherence to the direction they indicate and by restraint within the limitations they fix, that we can furnish proof to the world of the fitness of the American people for self-government.

The equal and exact justice of which we boast as the underlying principle of our institutions, should not be confined to the relations of our citizens to each other. The Government itself is under bond to the American people, that in the exercise of its functions and powers it will deal with the body of our citizens in a manner scrupulously honest and fair and absolutely just. It has agreed that American citizenship shall be the only credential necessary to justify the claim of equality before the law, and that no condition in life shall give rise to discrimination in the treatment of the people by their Government.

The citizen of our Republic in its early days rigidly insisted upon full compliance with the letter of this bond, and saw stretching out before him a clear field for individual endeavor. His tribute to the support of his Government was measured by the cost of its

economical maintenance, and he was secure in the enjoyment of the remaining recompense of his steady and contented toil. In those days the frugality of the people was stamped upon their Government, and was enforced by the free, thoughtful, and intelligent suffrage of the citizen. Combinations, monopolies, and aggregations of capital were either avoided or sternly regulated and restrained. The pomp and glitter of Governments less free, offered no temptation and presented no delusion to the plain people who, side by side, in friendly competition wrought for the ennoblement and dignity of man, for the solution of the problem of free government, and for the achievement of the grand destiny awaiting the land which God had given them.

A century has passed. Our cities are the abiding-places of wealth and luxury; our manufactories yield fortunes never dreamed of by the fathers of the Republic; our business men are madly striving in the race for riches, and immense aggregations of capital outrun the imagination in the magnitude of their undertakings.

We view with pride and satisfaction this bright picture of our country's growth and prosperity, while only a closer scrutiny develops a somber shading. Upon more careful inspection we find the wealth and luxury of our cities mingled with poverty and wretchedness and unremunerative toil. A crowded and constantly increasing urban population suggests the impoverishment of rural sections, and discontent with agricultural pursuits. The farmer's son, not satisfied with his father's simple and laborious life, joins the eager chase for easily-acquired wealth.

We discover that the fortunes realized by our manufacturers are no longer solely the reward of sturdy industry and enlightened foresight, but that they result from the discriminating favor of the Government, and are largely built upon undue exactions from the masses of our people. The gulf between employers and the employed is constantly widening and classes are rapidly forming, one comprising the very rich and powerful, while in another are found the toiling poor.

As we view the achievements of aggregated capital, we discover the existence of trusts, combinations, and monopolies, while the citizen is struggling far in the rear or is trampled to death beneath an iron heel. Corporations, which should be the carefully-restrained creatures of the law and the servants of the people, are fast becoming the people's masters.

Still congratulating ourselves upon the wealth and prosperity of our country, and complacently contemplating every incident of change inseparable from these conditions, it is our duty as patriotic

citizens to inquire, at the present stage of our progress, how the bond of the Government made with the people has been kept and performed.

Instead of limiting the tribute drawn from our citizens, to the necessities of its economical administration, the Government persists in exacting, from the substance of the people, millions which unapplied and useless lie dormant in its Treasury. This flagrant injustice and this breach of faith and obligation add to extortion the danger attending the diversion of the currency of the country from the legitimate channels of business.

Under the same laws by which these results are produced, the Government permits many millions more to be added to the cost of the living of our people and to be taken from our consumers, which unreasonably swell the profits of a small but powerful minority.

The people must still be taxed for the support of the Government under the operation of tariff laws. But to the extent that the mass of our citizens are inordinately burdened beyond any useful public purpose, and for the benefit of a favored few, the Government, under pretext of an exercise of its taxing power, enters gratuitously into partnership with these favorites, to their advantage and to the injury of a vast majority of our people.

This is not equality before the law.

The existing situation is injurious to the health of our entire body-politic. It stifles, in those for whose benefit it is permitted, all patriotic love of country, and substitutes in its place selfish greed and grasping avarice. Devotion to American citizenship for its own sake and for what it should accomplish as a motive to our nation's advancement and the happiness of all our people, is displaced by the assumption that the Government, instead of being the embodiment of equality, is but an instrumentality through which especial and individual advantages are to be gained.

The arrogance of this assumption is unconcealed. It appears in the sordid disregard of all but personal interests, in the refusal to abate for the benefit of others one iota of selfish advantage, and in combinations to perpetuate such advantages through efforts to control legislation and improperly influence the suffrages of the people.

The grievances of those not included within the circle of these beneficiaries, when fully realized, will surely arouse irritation and discontent. Our farmers, long-suffering and patient, struggling in the race of life with the hardest and most unremitting toil, will not fail to see, in spite of misrepresentations and misleading fallacies, that they are obliged to accept such prices for their products as are

fixed in foreign markets where they compete with the farmers of the world; that their lands are declining in value while their debts increase; and that without compensating favor they are forced by the action of the Government to pay, for the benefit of others, such enhanced prices for the things they need, that the scanty returns of their labor fail to furnish their support or leave no margin for accumulation.

Our workingmen, enfranchised from all delusions and no longer frightened by the cry that their wages are endangered by a just revision of our tariff laws, will reasonably demand through such revision steadier employment, cheaper means of living in their homes, freedom for themselves and their children from the doom of perpetual servitude, and an open door to their advancement beyond the limits of a laboring class. Others of our citizens whose comforts and expenditures are measured by moderate salaries and fixed incomes, will insist upon the fairness and justice of cheapening the cost of necessaries for themselves and their families.

When to the selfishness of the beneficiaries of unjust discrimination under our laws there shall be added the discontent of those who suffer from such discrimination, we will realize the fact that the beneficent purposes of our Government, dependent upon the patriotism and contentment of our people, are endangered.

Communism is a hateful thing, and a menace to peace and organized government. But the communism of combined wealth and capital, the outgrowth of overweening cupidity and selfishness, which insidiously undermines the justice and integrity of free institutions, is not less dangerous than the communism of oppressed poverty and toil which, exasperated by injustice and discontent, attacks with wild disorder the citadel of rule.

He mocks the people who proposes that the Government shall protect the rich and that they in turn will care for the laboring poor. Any intermediary between the people and their Government, or the least delegation of the care and protection the Government owes to the humblest citizen in the land, makes the boast of free institutions a glittering delusion and the pretended boon of American citizenship a shameless imposition.

A just and sensible revision of our tariff laws should be made for the relief of those of our countrymen who suffer under present conditions. Such a revision should receive the support of all who love that justice and equality due to American citizenship, of all who realize that in this justice and equality our Government finds its strength and its power to protect the citizen and his property, of all who believe that the contented competence and comfort of many

accord better with the spirit of our institutions than colossal fortunes unfairly gathered in the hands of a few, of all who appreciate that the forbearance and fraternity among our people, which recognize the value of every American interest, are the surest guaranty of our national progress, and of all who desire to see the products of American skill and ingenuity in every market of the world with a resulting restoration of American commerce.

The necessity of the reduction of our revenue is so apparent as to be generally conceded. But the means by which this end shall be accomplished and the sum of direct benefit which shall result to our citizens, present a controversy of the utmost importance. There should be no scheme accepted as satisfactory by which the burdens of the people are only apparently removed. Extravagant appropriations of public money, with all their demoralizing consequences, should not be tolerated, either as a means of relieving the Treasury of its present surplus, or as furnishing pretext for resisting a proper reduction in tariff rates. Existing evils and injustice should be honestly recognized, boldly met, and effectively remedied. There should be no cessation of the struggle until a plan is perfected, fair and conservative toward existing industries, but which will reduce the cost to consumers of the necessaries of life, while it provides for our manufacturers the advantage of freer raw materials and permits no injury to the interests of American labor.

The cause for which the battle is waged is comprised within lines clearly and distinctly defined. It should never be compromised. It is the people's cause.

It can not be denied that the selfish and private interests which are so persistently heard, when efforts are made to deal in a just and comprehensive manner with our tariff laws, are related to, if they are not responsible for, the sentiment largely prevailing among the people, that the General Government is the fountain of individual and private aid; that it may be expected to relieve with paternal care the distress of citizens and communities, and that from the fullness of its Treasury it should, upon the slightest possible pretext of promoting the general good, apply public funds to the benefit of localities and individuals. Nor can it be denied that there is a growing assumption that, as against the Government and in favor of private claims and interests, the usual rules and limitations of business principles and just dealing should be waived.

These ideas have been unhappily much encouraged by legislative acquiescence. Relief from contracts made with the Government is too easily accorded in favor of the citizen; the failure to support claims against the Government by proof, is often supplied by

no better consideration than the wealth of the Government and the poverty of the claimant; gratuities in the form of pensions are granted upon no other real ground than the needy condition of the applicant, or for reasons less valid; and large sums are expended for public buildings and other improvements upon representations scarcely claimed to be related to public needs and necessities.

The extent to which the consideration of such matters subordinate and postpone action upon subjects of great public importance, but involving no special, private, or partisan interest, should arrest attention and lead to reformation.

A few of the numerous illustrations of this condition may be stated.

The crowded condition of the calendar of the Supreme Court, and the delay to suitors and denial of justice resulting therefrom, has been strongly urged upon the attention of the Congress, with a plan for the relief of the situation approved by those well able to judge of its merits. While this subject remains without effective consideration many laws have been passed providing for the holding of terms of inferior courts at places to suit the convenience of localities, or to lay the foundation of an application for the erection of a new public building.

Repeated recommendations have been submitted for the amendment and change of the laws relating to our public lands so that their spoliation and diversion to other uses than as homes for honest settlers might be prevented. While a measure to meet this conceded necessity of reform remains awaiting the action of the Congress, many claims to the public lands and applications for their donation, in favor of States and individuals, have been allowed.

A plan in aid of Indian management, recommended by those well informed, as containing valuable features in furtherance of the solution of the Indian problem, has thus far failed of legislative sanction, while grants of doubtful expediency to railroad corporations, permitting them to pass through Indian reservations, have greatly multiplied.

The propriety and necessity of the erection of one or more prisons for the confinement of United States convicts, and a post-office building in the national capital, are not disputed. But these needs yet remain unanswered, while scores of public buildings have been erected where their necessity for public purposes is not apparent.

A revision of our pension laws could easily be made, which would rest upon just principles and provide for every worthy applicant. But while our general pension laws remain confused and imperfect, hundreds of private pension laws are annually passed, which are the sources of unjust discrimination and popular demoralization.

Appropriation bills for the support of the Government are defaced by items and provisions to meet private ends, and it is freely asserted by responsible and experienced parties that a bill appropriating money for public internal improvement would fail to meet with favor, unless it contained items more for local and private advantage than for public benefit.

These statements can be much emphasized by an ascertainment of the proportion of Federal legislation, which either bears upon its face its private character or which, upon examination, develops such a motive power.

And yet the people wait and expect from their chosen representatives such patriotic action as will advance the welfare of the entire country; and this expectation can only be answered by the performance of public duty with unselfish purpose. Our mission among the nations of the earth, and our success in accomplishing the work God has given the American people to do, require of those intrusted with the making and execution of our laws perfect devotion, above all other things, to the public good.

This devotion will lead us to strongly resist all impatience of constitutional limitations of Federal power, and to persistently check the increasing tendency to extend the scope of Federal legislation into the domain of State and local jurisdiction, upon the plea of subserving the public welfare. The preservation of the partitions between proper subjects of Federal and local care and regulation, is of such importance under the Constitution, which is the law of our very existence, that no consideration of expediency or sentiment should tempt us to enter upon doubtful ground. We have undertaken to discover and proclaim the richest blessings of a free Government, with the Constitution as our guide. Let us follow the way it points out. It will not mislead us. And surely no one who has taken upon himself the solemn obligation to support and preserve the Constitution can find justification or solace for disloyalty in the excuse that he wandered and disobeyed in search of a better way to reach the public welfare than the Constitution offers.

What has been said is deemed not inappropriate at a time when, from a century's height, we view the way already trod by the American people, and attempt to discover their future path.

The seventh President of the United States—the soldier and statesman, and at all times the firm and brave friend of the people—in vindication of his course as the protector of popular rights and the champion of true American citizenship, declared:

"The ambition which leads me on is an anxious desire and a fixed determination to restore to the people, unimpaired, the sacred trust

they have confided to my charge; to heal the wounds of the Constitution and to preserve it from further violation; to persuade my countrymen, so far as I may, that it is not in a splendid government supported by powerful monopolies and aristocratical establishments that they will find happiness, or their liberties protection, but in a plain system, void of pomp—protecting all and granting favors to none—dispensing its blessings like the dews of heaven, unseen and unfelt save in the freshness and beauty they contribute to produce. It is such a government that the genius of our people requires—such an one only under which our States may remain, for ages to come, united, prosperous, and free."

In pursuance of a constitutional provision requiring the President, from time to time, to give to the Congress information of the state of the Union, I have the satisfaction to announce that the close of the year finds the United States in the enjoyment of domestic tranquillity and at peace with all the nations.

Since my last annual message our foreign relations have been strengthened and improved by performance of international good offices and by new and renewed treaties of amity, commerce, and reciprocal extradition of criminals.

Those international questions which still await settlement are all reasonably within the domain of amicable negotiation, and there is no existing subject of dispute between the United States and any foreign power that is not susceptible of satisfactory adjustment by frank diplomatic treatment.

The questions between Great Britain and the United States relating to the rights of American fishermen, under treaty and international comity, in the territorial waters of Canada and Newfoundland, I regret to say are not yet satisfactorily adjusted.

These matters were fully treated in my message to the Senate of February 20, 1888, together with which a convention, concluded under my authority with Her Majesty's Government on the 15th of February last, for the removal of all causes of misunderstanding, was submitted by me for the approval of the Senate.

This treaty having been rejected by the Senate, I transmitted a message to the Congress, on the 23d of August last, reviewing the transactions and submitting for consideration certain recommendations for legislation concerning the important questions involved.

Afterwards, on the 12th of September, in response to a resolution of the Senate, I again communicated fully all the information in my possession as to the action of the Government of Canada affecting the commercial relations between the Dominion and the United

States, including the treatment of American fishing vessels in the ports and waters of British North America.

These communications have all been published, and therefore opened to the knowledge of both Houses of Congress, although two were addressed to the Senate alone.

Comment upon or repetition of their contents would be superfluous, and I am not aware that anything has since occurred which should be added to the facts therein stated. Therefore, I merely repeat, as applicable to the present time, the statement which will be found in my message to the Senate of September 12th last, "that since March 3, 1887, no case has been reported to the Department of State wherein complaint has been made of unfriendly or unlawful treatment of American fishing vessels on the part of the Canadian authorities, in which reparation was not promptly and satisfactorily obtained by the United States Consul-General at Halifax."

Having essayed, in the discharge of my duty, to procure by negotiation the settlement of a long-standing cause of dispute, and to remove a constant menace to the good relations of the two countries, and continuing to be of opinion that the treaty of February last, which failed to receive the approval of the Senate, did supply "a satisfactory, practical, and final adjustment upon a basis honorable and just to both parties of the difficult and vexed question to which it related," and having subsequently and unavailingly recommended other legislation to Congress which I hoped would suffice to meet the exigency created by the rejection of the treaty, I now again invoke the earnest and immediate attention of the Congress to the condition of this important question, as it now stands before them and the country, and for the settlement of which I am deeply solicitous.

Near the close of the month of October last, occurrences of a deeply regrettable nature were brought to my knowledge, which made it my painful but imperative duty to obtain, with as little delay as possible, a new personal channel of diplomatic intercourse in this country with the Government of Great Britain.

The correspondence in relation to this incident will in due course be laid before you, and will disclose the unpardonable conduct of the official referred to in his interference by advice and counsel with the suffrages of American citizens in the very crisis of the Presidential election then near at hand, and also in his subsequent public declarations to justify his action, superadding impugnment of the Executive and Senate of the United States, in connection with important questions now pending in controversy between the two Governments.

The offense thus committed was most grave, involving disastrous possibilities to the good relations of the United States and Great Britain, constituting a gross breach of diplomatic privilege and an invasion of the purely domestic affairs and essential sovereignty of the Government to which the envoy was accredited.

Having first fulfilled the just demands of international comity, by affording full opportunity for Her Majesty's Government to act in relief of the situation, I considered prolongation of discussion to be unwarranted and thereupon declined to further recognize the diplomatic character of the person, whose continuance in such function would destroy that mutual confidence which is essential to the good understanding of the two Governments, and was inconsistent with the welfare and self-respect of the Government of the United States.

The usual interchange of communication has since continued through Her Majesty's legation in this city.

My endeavors to establish by international co-operation measures for the prevention of the extermination of fur-seals in Behring Sea have not been relaxed, and I have hopes of being enabled shortly to submit an effective and satisfactory conventional *projet* with the maritime powers for the approval of the Senate.

The coastal boundary between our Alaskan possessions and British Columbia, I regret to say, has not received the attention demanded by its importance, and which on several occasions heretofore I have had the honor to recommend to the Congress.

The admitted impracticability, if not impossibility, of making an accurate and precise survey and demarkation of the boundary-line, as it is recited in the treaty with Russia under which Alaska was ceded to the United States, renders it absolutely requisite, for the prevention of international jurisdictional complications, that adequate appropriation for a reconnoisance and survey to obtain proper knowledge of the locality and the geographical features of the boundary should be authorized by Congress with as little delay as possible.

Knowledge to be only thus obtained is an essential prerequisite for negotiation for ascertaining a common boundary, or as preliminary to any other mode of settlement.

It is much to be desired that some agreement should be reached with Her Majesty's Government by which the damages to life and property on the Great Lakes may be alleviated by removing or humanely regulating the obstacles to reciprocal assistance to wrecked or stranded vessels.

The act of June 19, 1878, which offers to Canadian vessels free access to our inland waters in aid of wrecked or disabled vessels, has not yet become effective through concurrent action by Canada.

The due protection of our citizens of French origin or descent, from claim of military service in the event of their returning to or visiting France, has called forth correspondence which was laid before you at the last session.

In the absence of conventional agreement as to naturalization, which is greatly to be desired, this Government sees no occasion to recede from the sound position it has maintained not only with regard to France but as to all countries with which the United States have not concluded special treaties.

Twice within the last year has the Imperial household of Germany been visited by death; and I have hastened to express the sorrow of this people, and their appreciation of the lofty character of the late aged Emperor William, and their sympathy with the heroism under suffering of his son the late Emperor Frederick.

I renew my recommendation of two years ago for the passage of a bill for the refunding to certain German steamship lines of the interest upon tonnage dues illegally exacted.

On the 12th of April last, I laid before the House of Representatives full information respecting our interests in Samoa; and in the subsequent correspondence on the same subject, which will be laid before you in due course, the history of events in those islands will be found.

In a message accompanying my approval, on the 1st day of October last, of a bill for the exclusion of Chinese laborers, I laid before Congress full information and all correspondence touching the negotiation of the treaty with China, concluded at this Capital on the 12th day of March, 1888, and which, having been confirmed by the Senate with certain amendments, was rejected by the Chinese Government. This message contained a recommendation that a sum of money be appropriated as compensation to Chinese subjects who had suffered injuries at the hands of lawless men within our jurisdiction. Such appropriation having been duly made, the fund awaits reception by the Chinese Government.

It is sincerely hoped that by the cessation of the influx of this class of Chinese subjects, in accordance with the expressed wish of both Governments, a cause of unkind feeling, has been permanently removed.

On the 9th of August, 1887, notification was given by the Japanese minister at this Capital of the adjournment of the conference for

the revision of the treaties of Japan with foreign powers, owing to the objection of his Government to the provision in the draft jurisdictional convention which required the submission of the criminal code of the Empire to the powers in advance of its becoming operative. This notification was, however, accompanied with an assurance of Japan's intention to continue the work of revision.

Notwithstanding this temporary interruption of negotiations, it is hoped that improvements may soon be secured in the jurisdictional system as respects foreigners in Japan, and relief afforded to that country from the present undue and oppressive foreign control in matters of commerce.

I earnestly recommend that relief be provided for the injuries accidentally caused to Japanese subjects in the Island Ikisima by the target practice of one of our vessels.

A diplomatic mission from Corea has been received, and the formal intercourse between the two countries contemplated by the treaty of 1882, is now established.

Legislative provision is hereby recommended to organize and equip consular courts in Corea.

Persia has established diplomatic representation at this capital and has evinced very great interest in the enterprise and achievements of our citizens. I am, therefore, hopeful that beneficial commercial relations between the two countries may be brought about.

I announce with sincere regret that Hayti has again become the theater of insurrection, disorder, and bloodshed. The titular Government of President Saloman has been forcibly overthrown, and he driven out of the country to France, where he has since died.

The tenure of power has been so unstable amid the war of factions that has ensued since the expulsion of President Saloman, that no Government constituted by the will of the Haytien people has been recognized as administering responsibly the affairs of that country. Our representative has been instructed to abstain from interference between the warring factions, and a vessel of our Navy has been sent to Haytien waters to sustain our minister and for the protection of the persons and property of American citizens.

Due precautions have been taken to enforce our neutrality laws and prevent our territory from becoming the base of military supplies for either of the warring factions.

Under color of a blockade, of which no reasonable notice had been given, and which does not appear to have been efficiently maintained,

a seizure of vessels under the American flag has been reported, and, in consequence, measures to prevent and redress any molestation of our innocent merchantmen have been adopted.

Proclamation was duly made on the 9th day of November, 1887, of the conventional extensions of the treaty of June 3, 1875, with Hawaii, under which relations of such special and beneficent intercourse have been created.

In the vast field of Oriental commerce now unfolded from our Pacific borders, no feature presents stronger recommendations for Congressional action than the establishment of communication by submarine telegraph with Honolulu.

The geographical position of the Hawaiian group, in relation to our Pacific States, creates a natural interdependency and mutuality of interest which our present treaties were intended to foster, and which make close communication a logical and commercial necessity.

The wisdom of concluding a treaty of commercial reciprocity with Mexico has been heretofore stated in my messages to Congress, and the lapse of time and growth of commerce with that close neighbor and sister Republic confirm the judgment so expressed.

The precise re-location of our boundary line is needful, and adequate appropriation is now recommended.

It is with sincere satisfaction that I am enabled to advert to the spirit of good neighborhood and friendly co-operation and conciliation that has marked the correspondence and action of the Mexican authorities in their share of the task of maintaining law and order about the line of our common boundary.

The long-pending boundary dispute between Costa Rica and Nicaragua was referred to my arbitration; and by an award made on the 22d of March last, the question has been finally settled to the expressed satisfaction of both of the parties in interest.

The Empire of Brazil, in abolishing the last vestige of slavery among Christian nations, called forth the earnest congratulations of this Government in expression of the cordial sympathies of our people.

The claims of nearly all other countries against Chile, growing out of her late war with Bolivia and Peru, have been disposed of, either by arbitration or by a lump settlement. Similar claims of our citizens will continue to be urged upon the Chilean Government, and it is hoped will not be subject to further delays.

A comprehensive treaty of amity and commerce with Peru was proclaimed on November 7th, last; and it is expected that under its operation mutual prosperity and good understanding will be promoted.

In pursuance of the policy of arbitration, a treaty to settle the claim of Santos, an American citizen, against Ecuador has been concluded under my authority, and will be duly submitted for the approval of the Senate.

Like disposition of the claim of Carlos Butterfield against Denmark, and of Van Bokelen against Hayti, will probably be made, and I trust the principle of such settlements may be extended in practice under the approval of the Senate.

Through unforeseen causes, foreign to the will of both Governments, the ratification of the convention of December 5, 1885, with Venezuela, for the rehearing of claims of citizens of the United States under the treaty of 1866, failed of exchange within the term provided, and a supplementary convention, further extending the time for exchange of ratifications and explanatory of an ambiguous provision of the prior convention, now awaits the advice and consent of the Senate.

Although this matter, in the stage referred to, concerns only the concurrent treaty-making power of one branch of Congress, I advert to it in view of the interest repeatedly and conspicuously shown by you, in your legislative capacity, in favor of a speedy and equitable adjustment of the questions growing out of the discredited judgments of the previous mixed commission of Caracas. With every desire to do justice to the representations of Venezuela in this regard, the time seems to have come to end this matter, and I trust the prompt confirmation by both parties of the supplementary action referred to, will avert the need of legislative or other action to prevent the longer withholding of such rights of actual claimants as may be shown to exist.

As authorized by the Congress, preliminary steps have been taken for the assemblage at this Capital, during the coming year, of the representatives of South and Central American States, together with those of Mexico, Hayti, and San Domingo, to discuss sundry important monetary and commercial topics.

Excepting in those cases where, from reasons of contiguity of territory and the existence of a common border line incapable of being guarded, reciprocal commercial treaties may be found expedient, it

is believed that commercial policies inducing freer mutual exchange of products can be most advantageously arranged by independent but co-operative legislation.

In the mode last mentioned the control of our taxation for revenue will be always retained in our own hands unrestricted by conventional agreements with other governments.

In conformity also with Congressional authority the maritime powers have been invited to confer, in Washington, in April next, upon the practicability of devising uniform rules and measures for the greater security of life and property at sea. A disposition to accept on the part of a number of the powers has already been manifested, and if the co-operation of the nations chiefly interested shall be secured important results may be confidently anticipated.

The act of June 26, 1884, and the acts amendatory thereof, in relation to tonnage duties, have given rise to extended correspondence with foreign nations, with whom we have existing treaties of navigation and commerce, and have caused wide and regrettable divergence of opinion in relation to the imposition of the duties referred to. These questions are important, and I shall make them the subject of a special and more detailed communication at the present session.

With the rapid increase of immigration to our shores and the facilities of modern travel, abuses of the generous privileges afforded by our naturalization laws call for their careful revision.

The easy and unguarded manner in which certificates of American citizenship can now be obtained has induced a class, unfortunately large, to avail themselves of the opportunity to become absolved from allegiance to their native land and yet by a foreign residence to escape any just duty and contribution of service to the country of their proposed adoption. Thus while evading the duties of citizenship to the United States they may make prompt claim for its national protection and demand its intervention in their behalf. International complications of a serious nature arise, and the correspondence of the State Department discloses the great number and complexity of the questions which have been raised.

Our laws regulating the issue of passports should be carefully revised, and the institution of a central bureau of registration at the Capital is again strongly recommended. By this means full particulars of each case of naturalization in the United States would be secured and properly indexed and recorded, and thus many cases of

spurious citizenship would be detected and unjust responsibilities would be avoided.

The reorganization of the consular service is a matter of serious importance to our national interests. The number of existing principal consular offices is believed to be greater than is at all necessary for the conduct of the public business. It need not be our policy to maintain more than a moderate number of principal offices, each supported by a salary sufficient to enable the incumbent to live in comfort, and so distributed as to secure the convenient supervision, through subordinate agencies, of affairs over a considerable district.

I repeat the recommendations heretofore made by me, that the appropriations for the maintenance of our diplomatic and consular service should be recast; that the so-called notarial or unofficial fees, which our representatives abroad are now permitted to treat as personal perquisites, should be forbidden; that a system of consular inspection should be instituted; and that a limited number of secretaries of legation at large should be authorized.

Preparations for the centennial celebration, on April 30, 1889, of the inauguration of George Washington as President of the United States, at the city of New York, have been made by a voluntary organization of the citizens of that locality, and believing that an opportunity should be afforded for the expression of the interest felt throughout the country in this event, I respectfully recommend fitting and co-operative action by Congress on behalf of the people of the United States.

The report of the Secretary of the Treasury exhibits in detail the condition of our national finances and the operations of the several branches of the Government related to his Department.

The total ordinary revenues of the Government for the fiscal year ended June 30, 1888, amounted to $379,266,074.76, of which $219,091,173.63 was received from customs duties and $124,296,871.98 from internal-revenue taxes.

The total receipts from all sources exceeded those for the fiscal year ended June 30, 1887, by $7,862,797.10.

The ordinary expenditures of the Government for the fiscal year ending June 30, 1888, were $259,653,958.67, leaving a surplus of $119,612,116.09.

The decrease in these expenditures as compared with the fiscal year ended June 30, 1887, was $8,278,221.30, notwithstanding the

payment of more than $5,000,000 for pensions in excess of what was paid for that purpose in the latter-mentioned year.

The revenues of the Government for the year ending June 30, 1889, ascertained for the quarter ended September 30, 1888, and estimated for the remainder of the time, amount to $377,000,000; and the actual and estimated ordinary expenditures for the same year are $273,000,000, leaving an estimated surplus of $104,000,000.

The estimated receipts for the year ending June 30, 1890, are $377,000,000, and the estimated ordinary expenditures for the same time are $275,767,488.34, showing a surplus of $101,232,511.66.

The foregoing statements of surplus do not take into account the sum necessary to be expended to meet the requirements of the sinking-fund act, amounting to more than $47,000,000 annually.

The cost of collecting the customs revenues for the last fiscal year was 2.44 per cent.; for the year 1885 it was 3.77 per cent.

The excess of internal-revenue taxes collected during the last fiscal year over those collected for the year ended June 30, 1887, was $5,489,174.26, and the cost of collecting this revenue decreased from 3.4 per cent. in 1887 to less than 3.2 per cent. for the last year. The tax collected on oleomargarine was $723,948.04 for the year ending June 30, 1887, and $864,139.88 for the following year.

The requirements of the sinking-fund act have been met for the year ended June 30, 1888, and for the current year also, by the purchase of bonds. After complying with this law as positively required, and bonds sufficient for that purpose had been bought at a premium, it was not deemed prudent to further expend the surplus in such purchases until the authority to do so should be more explicit. A resolution, however, having been passed by both Houses of Congress removing all doubt as to Executive authority, daily purchases of bonds were commenced on the 23d day of April, 1888, and have continued until the present time. By this plan bonds of the Government not yet due have been purchased up to and including the 30th day of November, 1888, amounting to $94,700,400, the premium paid thereon amounting to $17,508,613.08.

The premium added to the principal of these bonds represents an investment yielding about 2 per cent. interest for the time they still had to run; and the saving to the Government represented by the difference between the amount of interest at 2 per cent. upon the sum paid for principal and premium and what it would have paid for interest at the rate specified in the bonds if they had run to their maturity, is about $27,165,000.

At first sight this would seem to be a profitable and sensible transaction on the part of the Government. But, as suggested by the

Secretary of the Treasury, the surplus thus expended for the purchase of bonds was money drawn from the people in excess of any actual need of the Government, and was so expended rather than allow it to remain idle in the Treasury. If this surplus under the operation of just and equitable laws had been left in the hands of the people, it would have been worth in their business at least six per cent. per annum. Deducting from the amount of interest upon the principal and premium of these bonds for the time they had to run at the rate of six per cent. the saving of two per cent. made for the people by the purchase of such bonds, the loss will appear to be $55,760,000.

This calculation would seem to demonstrate that if excessive and unnecessary taxation is continued and the Government is forced to pursue this policy of purchasing its own bonds at the premiums which it will be necessary to pay, the loss to the people will be hundreds of millions of dollars.

Since the purchase of bonds was undertaken as mentioned, nearly all that have been offered were at last accepted. It has been made quite apparent that the Government was in danger of being subjected to combinations to raise their price, as appears by the instance cited by the Secretary of the offering of bonds of the par value of only $326,000 so often that the aggregate of the sums demanded for their purchase amounted to more than $19,700,000.

Notwithstanding the large sums paid out in the purchase of bonds, the surplus in the Treasury on the 30th day of November, 1888, was $52,234,610.01, after deducting about $20,000,000 just drawn out for the payment of pensions.

At the close of the fiscal year ended June 30, 1887, there had been coined under the compulsory-silver-coinage act $266,988,280 in silver dollars, $55,504,310 of which were in the hands of the people.

On the 30th day of June, 1888, there had been coined $299,708,790; and of this $55,829,303 was in circulation in coin, and $200,387,376 in silver certificates, for the redemption of which silver dollars to that amount were held by the Government.

On the 30th day of November, 1888, $312,570,990 had been coined, $60,970,990 of the silver dollars were actually in circulation, and $237,418,346 in certificates.

The Secretary recommends the suspension of the further coinage of silver, and in such recommendation I earnestly concur.

For further valuable information and timely recommendations I ask the careful attention of the Congress to the Secretary's report.

The Secretary of War reports that the Army at the date of the last consolidated returns consisted of 2,189 officers and 24,549 enlisted men.

The actual expenditures of the War Department for the fiscal year ended June 30, 1888, amounted to $41,165,107.07, of which sum $9,158,516.63 was expended for public works, including river and harbor improvements.

"The Board of Ordnance and Fortifications," provided for under the act approved September 22, last, was convened October 30, 1888, and plans and specifications for procuring forgings for 8, 10, and 12 inch guns, under provisions of section 4, and also for procuring 12-inch breech-loading mortars, cast-iron, hooped with steel, under the provisions of section 5 of the said act, were submitted to the Secretary of War for reference to the Board, by the Ordnance Department on the same date.

These plans and specifications having been promptly approved by the Board and the Secretary of War, the necessary authority to publish advertisements, inviting proposals, in the newspapers throughout the country, was granted by the Secretary on November 12, and on November 13 the advertisements were sent out to the different newspapers designated. The bids for the steel forgings are to be opened on December 20, 1888, and for the mortars on December 15, 1888.

A Board of Ordnance Officers was convened at the Watervliet Arsenal on October 4, 1888, to prepare the necessary plans and specifications for the establishment of an Army Gun Factory at that point. The preliminary report of this Board, with estimates for shop buildings and officers' quarters, was approved by the Board of Ordnance and Fortifications, November 6 and 8. The specifications and form of advertisement and instructions to bidders have been prepared, and advertisements inviting proposals for the excavations for the shop building and for erecting the two sets of officers' quarters have been published. The detailed drawings and specifications for the Gun Factory building are well in hand, and will be finished within three or four months, when bids will be invited for the erection of the building. The list of machines, etc., is made out, and it is expected that the plans for the large lathes, etc., will be completed within about four months, and after approval by the Board of Ordnance and Fortification, bids for furnishing the same will be invited. The machines and other fixtures will be completed as soon as the shop is in readiness to receive them, probably about July, 1890.

Under the provisions of the Army bill, for the procurement of pneumatic dynamite guns, the necessary specifications are now being

prepared and advertisements for proposals will issue early in December. The guns will probably be of 15 inches caliber and fire a projectile that will carry a charge, each, of about five hundred pounds of explosive gelatine with full-caliber projectiles. The guns will probably be delivered in from six to ten months from the date of the contract, so that all the guns of this class that can be procured under the provisions of the law will be purchased during the year 1889.

I earnestly request that the recommendations contained in the Secretary's report, all of which are, in my opinion, calculated to increase the usefulness and discipline of the Army, may receive the consideration of the Congress. Among these the proposal that there should be provided a plan for the examination of officers to test their fitness for promotion is of the utmost importance. This reform has been before recommended in the reports of the Secretary, and its expediency is so fully demonstrated by the argument he presents in its favor that its adoption should no longer be neglected.

The death of General Sheridan in August last was a national affliction. The Army then lost the grandest of its chiefs. The country lost a brave and experienced soldier, a wise and discreet counselor, and a modest and sensible man. Those who in any manner came within the range of his personal association will never fail to pay deserved and willing homage to his greatness and the glory of his career; but they will cherish with more tender sensibility the loving memory of his simple, generous, and considerate nature.

The Apache Indians, whose removal from their reservation in Arizona followed the capture of those of their number who engaged in a bloody and murderous raid during a part of the years 1885 and 1886, are now held as prisoners of war at Mount Vernon barracks, in the State of Alabama. They numbered, on the 31st day of October, the date of the last report, 83 men, 170 women, 70 boys, and 59 girls, in all 382 persons. The commanding officer states that they are in good health and contented, and that they are kept employed as fully as is possible in the circumstances. The children as they arrive at a suitable age are sent to the Indian schools at Carlisle and Hampton. Last summer some charitable and kind people asked permission to send two teachers to these Indians for the purpose of instructing the adults as well as such children as should be found there. Such permission was readily granted, accommodations were provided for the teachers, and some portions of the buildings at the barracks were made available for school purposes. The good work contemplated has been commenced, and the teachers engaged are paid by the ladies with whom the plan originated.

I am not at all in sympathy with those benevolent but injudicious people who are constantly insisting that these Indians should be returned to their reservation. Their removal was an absolute necessity if the lives and property of citizens upon the frontier are to be at all regarded by the Government. Their continued restraint at a distance from the scene of their repeated and cruel murders and outrages is still necessary. It is a mistaken philanthropy, every way injurious, which prompts the desire to see these savages returned to their old haunts. They are in their present location as the result of the best judgment of those having official responsibility in the matter, and who are by no means lacking in kind consideration for the Indians. A number of these prisoners have forfeited their lives to outraged law and humanity. Experience has proved that they are dangerous and can not be trusted. This is true not only of those who on the war-path have heretofore actually been guilty of atrocious murder, but of their kindred and friends, who, while they remained upon their reservation, furnished aid and comfort to those absent with bloody intent.

These prisoners should be treated kindly and kept in restraint far from the locality of their former reservation; they should be subjected to efforts calculated to lead to their improvement and the softening of their savage and cruel instincts, but their return to their old home should be persistently resisted.

The Secretary in his report gives a graphic history of these Indians, and recites with painful vividness their bloody deeds and the unhappy failure of the Government to manage them by peaceful means. It will be amazing if a perusal of this history will allow the survival of a desire for the return of these prisoners to their reservation upon sentimental or any other grounds.

The report of the Secretary of the Navy demonstrates very intelligent management in that important Department, and discloses the most satisfactory progress in the work of reconstructing the Navy made during the past year. Of the ships in course of construction, five, viz, the *Charleston*, *Baltimore*, *Yorktown*, *Vesuvius*, and the *Petrel*, have in that time been launched and are rapidly approaching completion; and in addition to the above, the *Philadelphia*, the *San Francisco*, the *Newark*, the *Bennington*, the *Concord*, and the Herreshoff torpedo-boat are all under contract for delivery to the Department during the next year. The progress already made and being made gives good ground for the expectation that these eleven vessels will be incorporated as part of the American Navy within the next twelve months.

The report shows that notwithstanding the large expenditures for new construction, and the additional labor they involve, the total ordinary or current expenditures of the Department for the three years ending June 30, 1888, are less by more than 20 per cent. than such expenditures for the three years ending June 30, 1884.

The various steps which have been taken to improve the business methods of the Department are reviewed by the Secretary. The purchasing of supplies has been consolidated and placed under a responsible Bureau head. This has resulted in the curtailment of open purchases, which in the years 1884 and 1885 amounted to over 50 per cent. of all the purchases of the Department, to less than 11 per cent.; so that at the present time about 90 per cent. of the total Departmental purchases are made by contract and after competition. As the expenditures on this account exceed an average of $2,000,000 annually, it is evident that an important improvement in the system has been inaugurated and substantial economies introduced.

The report of the Postmaster-General shows a marked increase of business in every branch of the postal service.

The number of post-offices on July 1, 1888, was 57,376, an increase of 6,124 in three years and of 2,219 for the last fiscal year. The latter-mentioned increase is classified as follows:

New England States	5
Middle States	181
Southern States and Indian Territory (41)	1,406
The States and Territories of the Pacific coast	190
The ten States and Territories of the West and Northwest	435
District of Columbia	2
Total	2,219

Free-delivery offices have increased from 189 in the fiscal year ended June 30, 1887, to 358 in the year ended June 30, 1888.

In the Railway Mail Service there has been an increase in one year of 168 routes, and in the number of miles traveled per annum an increase of 15,795,917.48. The estimated increase of railroad service for the year was 6,000 miles, but the amount of new railroad service actually put on was 12,764.50 miles.

The volume of business in the Money-Order Division, including transactions in postal notes, reached the sum of upwards of $143,000,000 for the year.

During the past year Parcel Post Conventions have been concluded with Barbadoes, the Bahamas, British Honduras, and Mexico, and are now under negotiation with all the Central and South American

States. The increase of correspondence with foreign countries during the past three years is gratifying, and is especially notable and exceptional with the Central and South American States, and with Mexico. As the greater part of mail matter exchanged with these countries is commercial in its character, this increase is evidence of the improved business relations with them. The practical operation of the Parcel Post Conventions, so far as negotiated, has served to fulfill the most favorable predictions as to their benefits. In January last a General Postal Convention was negotiated with the Dominion of Canada, which went into operation on March 1st, and which practically makes one postal territory of the United States and Canada. Under it merchandise parcels may now be transmitted through the mails at fourth-class rates of postage.

It is not possible here to touch even the leading heads of the great postal establishment, to illustrate the enormous and rapid growth of its business and the needs for legislative re-adjustment of much of its machinery that it has outgrown. For these and valuable recommendations of the Postmaster-General, attention is earnestly invited to his report.

A Department whose revenues have increased from $19,772,000 in 1870 to $52,700,000 in 1888, despite reductions of postage which have enormously reduced rates of revenue while greatly increasing its business, demands the careful consideration of the Congress as to all matters suggested by those familiar with its operations, and which are calculated to increase its efficiency and usefulness.

A bill, proposed by the Postmaster-General, was introduced at the last session of the Congress, by which a uniform standard in the amount of gross receipts would fix the right of a community to a public building to be erected by the Government for post-office purposes. It was demonstrated that, aside from the public convenience and the promotion of harmony among citizens—invariably disturbed by change of leasings and of site—it was a measure of the highest economy and of sound business judgment. It was found that the Government was paying in rents at the rate of from seven to ten per cent. per annum on what the cost of such public buildings would be. A very great advantage resulting from such a law would be the prevention of a large number of bills, constantly introduced for the erection of public buildings at places, and involving expenditures, not justified by public necessity. I trust that this measure will become a law at the present session of Congress.

Of the total number of postmasters, 54,874 are of the fourth class. These, of course, receive no allowances whatever for expenses in the service, and their compensation is fixed by percentages on re-

ceipts at their respective offices. This rate of compensation may have been, and probably was, at some time, just, but the standard has remained unchanged through the several reductions in the rates of postage. Such reductions have necessarily cut down the compensation of these officials, while it undoubtedly increased the business performed by them. Simple justice requires attention to this subject, to the end that fourth-class postmasters may receive at least an equivalent to that which the law itself, fixing the rate, intended for them.

Another class of postal employés whose condition seems to demand legislation is that of clerks in post-offices; and I call especial attention to the repeated recommendations of the Postmaster-General for their classification. Proper legislation of this character for the relief of carriers in the Free-Delivery Service has been frequent. Provision is made for their promotion; for substitutes for them on vacation; for substitutes for holidays, and limiting their hours of labor. Seven million dollars has been appropriated for the current year to provide for them, though the total number of offices where they are employed is but 358 for the past fiscal year, with an estimated increase for the current year of but 40, while the total appropriation for all clerks in offices throughout the United States is $5,950,000.

The legislation affecting the relations of the Government with railroads is in need of revision. While, for the most part, the railroad companies throughout the country have cordially co-operated with the Post-Office Department in rendering excellent service, yet under the law as it stands, while the compensation to them for carrying the mail is limited and regulated, and although railroads are made post-roads by law, there is no authority reposed anywhere to compel the owner of a railroad to take and carry the United States mails. The only alternative provided by act of Congress in case of refusal is for the Postmaster-General to send mail forward by pony express. This is but an illustration of ill-fitting legislation, reasonable and proper at the time of its enactment, but long since outgrown and requiring readjustment.

It is gratifying to note from the carefully prepared statistics accompanying the Postmaster-General's report that, notwithstanding the great expansion of the service, the rate of expenditure has been lessened, and efficiency has been improved in every branch; that fraud and crime have decreased; that losses from the mails have been reduced, and that the number of complaints of the service made to postmasters and to the Department are far less than ever before.

The transactions of the Department of Justice for the fiscal year ended June 30, 1888, are contained in the report of the Attorney-General, as well as a number of valuable recommendations, the most of which are repetitions of those previously made, and ought to receive consideration.

It is stated in this report that though judgments in civil suits amounting to $552,021.08 were recovered in favor of the Government during the year, only the sum of $132,934 was collected thereon; and that though fines, penalties, and forfeitures were imposed amounting to $541,808.43, only $109,648.42 of that sum was paid on account thereof. These facts may furnish an illustration of the sentiment which extensively prevails, that a debt due the Government should cause no inconvenience to the citizen.

It also appears from this report that though prior to March, 1885, there had been but six convictions in the Territories of Utah and Idaho under the laws of 1862 and 1882, punishing polygamy and unlawful cohabitation as crimes, there have been since that date nearly six hundred convictions under these laws and the statutes of 1887; and the opinion is expressed that under such a firm and vigilant execution of these laws, and the advance of ideas opposed to the forbidden practices, polygamy within the United States is virtually at an end.

Suits instituted by the Government under the provisions of the act of March 3, 1887, for the termination of the corporations known as the Perpetual Emigrating Fund Company and the Church of Jesus Christ of Latter Day Saints have resulted in a decree favorable to the Government, declaring the charters of these corporations forfeited and escheating their property. Such property, amounting in value to more than $800,000, is in the hands of a receiver pending further proceedings, an appeal having been taken to the Supreme Court of the United States.

In the report of the Secretary of the Interior, which will be laid before you, the condition of the various branches of our domestic affairs connected with that Department and its operations during the past year, are fully exhibited. But a brief reference to some of the subjects discussed in this able and interesting report can here be made; but I commend the entire report to the attention of the Congress, and trust that the sensible and valuable recommendations it contains will secure careful consideration.

I can not too strenuously insist upon the importance of proper measures to insure a right disposition of our public lands, not only as a matter of present justice, but in forecast of the consequences to

future generations. The broad, rich acres of our agricultural plains have been long preserved by nature to become her untrammeled gift to a people civilized and free, upon which should rest, in well-distributed ownership, the numerous homes of enlightened, equal, and fraternal citizens. They came to national possession with the warning example in our eyes of the entail of iniquities in landed proprietorship which other countries have permitted and still suffer. We have no excuse for the violation of principles, cogently taught by reason and example, nor for the allowance of pretexts which have sometimes exposed our lands to colossal greed. Laws which open a door to fraudulent acquisition, or administration which permits favor to rapacious seizure by a favored few of expanded areas that many should enjoy, are accessory to offenses against our national welfare and humanity, not to be too severely condemned or punished.

It is gratifying to know that something has been done at last to redress the injuries to our people and check the perilous tendency of the reckless waste of the national domain. That over eighty million acres have been arrested from illegal usurpation, improvident grants, and fraudulent entries and claims, to be taken for the homesteads of honest industry—although less than the greater areas thus unjustly lost—must afford a profound gratification to right-feeling citizens as it is a recompense for the labors and struggles of the recovery. Our dear experience ought sufficiently to urge the speedy enactment of measures of legislation which will confine the future disposition of our remaining agricultural lands to the uses of actual husbandry and genuine homes.

Nor should our vast tracts of so-called desert lands be yielded up to the monopoly of corporations or grasping individuals, as appears to be much the tendency under the existing statute. These lands require but the supply of water to become fertile and productive. It is a problem of great moment how most wisely for the public good that factor shall be furnished. I can not but think it perilous to suffer either these lands or the sources of their irrigation to fall into the hands of monopolies, which by such means may exercise lordship over the areas dependent on their treatment for productiveness. Already steps have been taken to secure accurate and scientific information of the conditions, which is the prime basis of intelligent action. Until this shall be gained, the course of wisdom appears clearly to lie in a suspension of further disposal, which only promises to create rights antagonistic to the common interest. No harm can follow this cautionary conduct. The land will remain, and the public good presents no demand for hasty dispossession of national ownership and control.

I commend also the recommendations that appropriate measures be taken to complete the adjustment of the various grants made to the States for internal improvements and of swamp and overflowed lands, as well as to adjudicate and finally determine the validity and extent of the numerous private land claims. All these are elements of great injustice and peril to the settlers upon the localities affected; and now that their existence can not be avoided, no duty is more pressing than to fix as soon as possible their bounds and terminate the threats of trouble which arise from uncertainty.

The condition of our Indian population continues to improve and the proofs multiply that the transforming change, so much to be desired, which shall substitute for barbarism enlightenment and civilizing education, is in favorable progress. Our relations with these people during the year have been disturbed by no serious disorders, but rather marked by a better realization of their true interests, and increasing confidence and good-will. These conditions testify to the value of the higher tone of consideration and humanity which has governed the later methods of dealing with them, and commend its continued observance.

Allotments in severalty have been made on some reservations until all those entitled to land thereon have had their shares assigned, and the work is still continued. In directing the execution of this duty I have not aimed so much at rapid dispatch as to secure just and fair arrangements which shall best conduce to the objects of the law, by producing satisfaction with the results of the allotments made. No measure of general effect has ever been entered on from which more may be fairly hoped, if it shall be discreetly administered. It proffers opportunity and inducement to that independence of spirit and life which the Indian peculiarly needs, while at the same time the inalienability of title affords security against the risks his inexperience of affairs or weakness of character may expose him to in dealing with others. Whenever begun upon any reservation it should be made complete, so that all are brought to the same condition, and, as soon as possible, community in lands should cease by opening such as remain unallotted to settlement. Contact with the ways of industrious and successful farmers will perhaps add a healthy emulation which will both instruct and stimulate.

But no agency for the amelioration of this people appears to me so promising as the extension, urged by the Secretary, of such complete facilities of education as shall, at the earliest possible day, embrace all teachable Indian youth, of both sexes, and retain them with a kindly and beneficent hold until their characters are formed and their faculties and dispositions trained to the sure pursuit of

some form of useful industry. Capacity of the Indian no longer needs demonstration. It is established. It remains to make the most of it, and when that shall be done the curse will be lifted, the Indian race saved, and the sin of their oppression redeemed. The time of its accomplishment depends upon the spirit and justice with which it shall be prosecuted. It cannot be too soon for the Indian, nor for the interests and good name of the nation.

The average attendance of Indian pupils on the schools increased by over 900 during the year, and the total enrollment reached 15,212. The cost of maintenance was not materially raised. The number of teachable Indian youth is now estimated at 40,000, or nearly three times the enrollment of the schools. It is believed the obstacles in the way of instructing are all surmountable, and that the necessary expenditure would be a measure of economy.

The Sioux tribes on the great reservation of Dakota refused to assent to the act passed by the Congress at its last session for opening a portion of their lands to settlement, notwithstanding modification of the terms was suggested which met most of their objections. Their demand is for immediate payment of the full price of $1.25 per acre for the entire body of land the occupancy of which they are asked to relinquish.

The manner of submission insured their fair understanding of the law, and their action was undoubtedly as thoroughly intelligent as their capacity admitted. It is at least gratifying that no reproach of over-reaching can in any manner lie against the Government, however advisable the favorable completion of the negotiation may have been esteemed.

I concur in the suggestions of the Secretary regarding the Turtle Mountain Indians, the two reservations in California, and the Crees. They should in my opinion receive immediate attention.

The number of pensioners added to the rolls during the fiscal year ended June 30, 1888, is 60,252; and increase of pensions was granted in 45,716 cases. The names of 15,730 pensioners were dropped from the rolls during the year for various causes, and at the close of the year the number of persons of all classes receiving pensions was 452,557. Of these there were 806 survivors of the war of 1812, 10,787 widows of those who served in that war, 16,060 soldiers of the Mexican war, and 5,104 widows of said soldiers.

One hundred and two different rates of pensions are paid to these beneficiaries, ranging from $2 to $416.66 per month.

The amount paid for pensions during the fiscal year was $78,775,861.92, being an increase over the preceding year of $5,308,280.22.

The expenses attending the maintenance and operation of the Pension Bureau during that period was $3,262,524.67, making the entire expenditures of the Bureau $82,038,386.57, being 21½ per cent. of the gross income and nearly 31 per cent. of the total expenditures of the Government during the year.

I am thoroughly convinced that our general pension laws should be revised and adjusted to meet, as far as possible in the light of our experience, all meritorious cases. The fact that one hundred and two different rates of pensions are paid can not, in my opinion, be made consistent with justice to the pensioners or to the Government; and the numerous private pension bills that are passed, predicated upon the imperfection of general laws, while they increase in many cases existing inequality and injustice, lend additional force to the recommendation for a revision of the general laws on this subject.

The laxity of ideas prevailing among a large number of our people regarding pensions is becoming every day more marked. The principles upon which they should be granted are in danger of being altogether ignored, and already pensions are often claimed because the applicants are as much entitled as other successful applicants rather than upon any disability reasonably attributable to military service. If the establishment of vicious precedents be continued, if the granting of pensions be not divorced from partisan and other unworthy and irrelevant considerations, and if the honorable name of veteran unfairly becomes by these means but another term for one who constantly clamors for the aid of the Government, there is danger that injury will be done to the fame and patriotism of many whom our citizens all delight to honor, and that a prejudice will be aroused unjust to meritorious applicants for pensions.

The Department of Agriculture has continued, with a good measure of success, its efforts to develop the processes, enlarge the results, and augment the profits of American husbandry. It has collected and distributed practical information, introduced and tested new plants, checked the spread of contagious disease of farm animals, resisted the advance of noxious insects and destructive fungus growths, and sought to secure to agricultural labor the highest reward of effort and the fullest immunity from loss. Its records of the year show that the season of 1888 has been one of medium production. A generous supply of the demands of consumption has been assured, and a surplus for exportation, moderate in certain products and bountiful in others, will prove a benefaction alike to buyer and grower.

Four years ago it was found that the great cattle industry of the country was endangered, and those engaged in it were alarmed at

the rapid extension of the European lung plague of pleuro-pneumonia. Serious outbreaks existed in Illinois, Missouri, and Kentucky, and in Tennessee animals affected were held in quarantine. Five counties in New York and from one to four counties in each of the States of New Jersey, Pennsylvania, Delaware, and Maryland were almost equally affected.

With this great danger upon us, and with the contagion already in the channels of commerce, with the enormous direct and indirect losses already being caused by it, and when only prompt and energetic action could be successful, there were in none of these States any laws authorizing this Department to eradicate the malady or giving the State officials power to co-operate with it for this purpose. The Department even lacked both the requisite appropriation and authority.

By securing State co-operation in connection with authority from Congress, the work of eradication has been pressed successfully, and this dreaded disease has been extirpated from the Western States and also from the Eastern States, with the exception of a few restricted areas, which are still under supervision. The danger has thus been removed, and trade and commerce have been freed from the vexatious State restrictions which were deemed necessary for a time.

During the past four years the process of diffusion, as applied to the manufacture of sugar from sorghum and sugar-cane, has been introduced into this country and fully perfected by the experiments carried on by the Department of Agriculture. This process is now universally considered to be the most economical one, and it is through it that the sorghum-sugar industry has been established upon a firm basis and the road to its future success opened. The adoption of this diffusion process is also extending in Louisiana and other sugar-producing parts of the country, and will doubtless soon be the only method employed for the extraction of sugar from the cane.

An exhaustive study has also, within the same period, been undertaken of the subject of food adulteration and the best analytical methods for detecting it. A part of the results of this work has already been published by the Department, which, with the matter in course of preparation, will make the most complete treatise on that subject that has ever been published in any country.

The Department seeks a progressive development. It would combine the discoveries of science with the economics and amelioration of rural practice. A supervision of the endowed experimental-station system recently provided for, is a proper function of the Department, and is now in operation. This supervision is very impor-

tant, and should be wisely and vigilantly directed, to the end that the pecuniary aid of the Government in favor of intelligent agriculture should be so applied as to result in the general good and to the benefit of all our people, thus justifying the appropriations made from the public Treasury.

The adjustment of the relations between the Government and the railroad companies which have received land grants and the guaranty of the public credit in aid of the construction of their roads should receive early attention. The report of a majority of the commissioners appointed to examine the affairs and indebtedness of these roads, in which they favor an extension of the time for the payment of such indebtedness in at least one case where the corporation appears to be able to comply with well-guarded and exact terms of such extension, and the reinforcement of their opinion by gentlemen of undoubted business judgment and experience, appointed to protect the interests of the Government as directors of said corporation, may well lead to the belief that such an extension would be to the advantage of the Government.

The subject should be treated as a business proposition with a view to a final realization of its indebtedness by the Government, rather than as a question to be decided upon prejudice or by way of punishment for previous wrong-doing.

The report of the Commissioners of the District of Columbia, with its accompanying documents, gives in detail the operations of the several departments of the District government, and furnishes evidence that the financial affairs of the District are at present in such satisfactory condition as to justify the Commissioners in submitting to the Congress estimates for desirable and needed improvements.

The Commissioners recommend certain legislation which in their opinion is necessary to advance the interests of the District.

I invite your special attention to their request for such legislation as will enable the Commissioners, without delay, to collect, digest, and properly arrange the laws by which the District is governed, and which are now embraced in several collections, making them available only with great difficulty and labor. The suggestions they make touching desirable amendments to the laws relating to licenses granted for carrying on the retail traffic in spirituous liquors, to the observance of Sunday, to the proper assessment and collection of taxes, to the speedy punishment of minor offenders, and to the management and control of the reformatory and charitable institutions supported by Congressional appropriations, are commended to careful consideration.

I again call attention to the present inconvenience and the danger to life and property attending the operation of steam railroads through and across the public streets and roads of the District. The propriety of such legislation as will properly guard the use of these railroads and better secure the convenience and safety of citizens is manifest.

The consciousness that I have presented but an imperfect statement of the condition of our country and its wants, occasions no fear that anything omitted is not known and appreciated by the Congress, upon whom rests the responsibility of intelligent legislation in behalf of a great nation and a confiding people.

As public servants we shall do our duty well if we constantly guard the rectitude of our intentions, maintain unsullied our love of country, and with unselfish purpose strive for the public good.

GROVER CLEVELAND.

WASHINGTON,
December 3, 1888.

FOREIGN RELATIONS.

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ARGENTINE REPUBLIC.

No.	From and to whom.	Date.	Subject.	Page.
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1	Mr. Hanna to Mr. Bayard (No. 93).	Nov. 19	Export duties of every kind removed by the Argentine Government: Discrimination by the United States import duty against Argentine unwashed wool and in favor of Australian.	1
2	Same to same (No. 94).....	Nov. 20	Steam-ship line: Basis of a contract with R. P. Houston, representing English capital, for steam-ship lines to New York and the north of Europe, guaranteeing 5 per cent. interest for fifteen years, passed by the Argentine Congress. Translation of the agreement inclosed.	2
3	Same to same (No. 98).....	Nov. 29	Railroad guaranties increased to $276,000,000 by the Argentine Government: Five per cent. on cost of construction and operating the basis.	4
4	Same to same (No. 100).....	Dec. 9	The President of the Argentine Republic invites the diplomatic corps to join him at Cordova: Attends the President on a trip up the Uruguay River; the Salerderos; the cities of Uruguay and Parana.	5
5	Same to same (No. 102).....	Dec. 12	Steam-ship lines: Baring Bros., of London, become large stockholders in the Italian line to southern Europe; four ships added to the fleet, and the trips to be nearly weekly; monthly line to New York soon to be begun.	6
6	Same to same (No. 103)....	Dec. 12	Quarantine: Convention regulating, signed by the Argentine, Brazilian, and Uruguayan commissioners; mail service and trade hitherto much embarrassed by quarantine regulations along the coast of Brazil, Uruguay, and the Argentine Republic; translation of convention inclosed.	7
		1888.		
7	Same to same (No. 121).....	Jan. 20	Passport issued to W. E. Bartel, by birth a German, who had lost his naturalization papers, but supported his claim to citizenship by the affidavits of two well-known sea captains; Department's opinion asked.	9
8	Same to same (No. 143).....	Mar. 22	Commercial: Argentine Republic a formidable rival to the United States in the production of cereals; encouraged and compelled to this by the refusal of the United States to take its wool; it will only trade by exchange; the same true of Uruguay and Paraguay; tables of export of wheat, flour, maize, and linseed for nine years past inclosed.	10
9	Mr. Bayard to Mr. Hanna (No. 61).	Mar. 27	Passport of Mr. Bartel, a German by birth, who claimed to have lost his naturalization papers, improvidently granted upon the affidavits of two sea captains; a full report awaited.	11
10	Mr. Hanna to Mr. Bayard (No. 150).	May 3	Steam-ship lines: The Houston line of steam-ships nearly ready to begin trips; it will fly the Argentine flag and carry mails; a member of the Canadian Parliament examining the Argentine and Uruguayan trade to see what Canada can furnish in return, with a view to establishing a line between the countries; a subsidy voted to the line by the Canadian Parliament; the United States unrepresented, but by a small effort could secure South American markets for its manufactures.	12
11	Same to same (No. 154).....	May 19	Slavery, abolition of, in Brazil celebrated in the Argentine Republic.	12

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12	Same to same (No. 166).....	July 25	Immigration continues: Argentine Republic ahead of all American countries south of the United States; European rivalry for its trade; indifference of the United States; imitation of American goods; American ships needed.	13
13	Same to same (No. 167).....	July 26	Colonization of negroes from United States rumored: Inquiries made by a manager of an English land company, who offers them a township; German colony expected; comments of the Buenos Ayres Standard inclosed.	14
14	Same to same (No. 168).....	July 29	Railroads: Complications developed by guaranteed railroads; most of the concessions to English companies, with directors in London; roads not kept in condition; attention called to the fact by the president of Congress; the message communicated by the British chargé d'affaires to the home office, and notice has been given by Lord Salisbury to the secretaries of the various companies to put themselves right; the guaranteed roads are required to increase their receipts to the fullest standard, or the guaranties may be withdrawn or applied to betterments; the English Government disposed to make its subjects keep faith; extracts from the message of the President of the Argentine Republic and the letter of Lord Salisbury inclosed.	15
15	Mr. Hanna to Mr. Bayard (No. 182).	Oct. 3	Political: Extra session of Argentine Congress called by President Celman, October 1, to consider important railroad and other legislation; adjournment expected latter part of November.	17

AUSTRIA-HUNGARY.

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16	Mr. Porter to Mr. Lawton (No. 5).	Sept. 8	Right to sue *in forma pauperis* under the United States Constitution determined by the *lex fori:* No power in the Federal Government to pass a general law; alien, as such, allowed to sue *in forma pauperis* in all the States; how far the privilege is extended to American citizens in Austria to be ascertained; copy of dispatch of United States vice-consul at Berlin in regard to treaty between Germany and Austria, as to the right to sue *in forma pauperis*, and Department's instruction to Mr. Pendleton, inclosed.	18
17	Mr. Lawton to Mr. Bayard (No. 14).	Nov. 4	Passport applied for by Sigismund Löwinsohn: He remained in the United States just long enough to be naturalized, and then returned to Austria, where he has resided ever since; asks the instruction of the Department; his application, naturalization papers, and a passport given him by this legation in 1883 inclosed.	19
18	Mr. Bayard to Mr. Lawton (No. 14).	Dec. 5	Passport of Mr. Löwinsohn; refusal of approved: He has settled in Vienna, and evidently intends permanently to reside there.	20
19	Mr. Lawton to Mr. Bayard (No. 19).	Dec. 10	Right to sue *in forma pauperis:* Note from the Austrian ministry of foreign affairs in answer to Mr. Lawton's inquiry as to the right of foreigners to sue *in forma pauperis* inclosed.	20
20	Same to same (No. 21)	Dec. 17	Right to sue *in forma pauperis:* Note from the Austrian ministry in regard to the right of foreigners to sue *in forma pauperis* in Hungary inclosed.	21
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21	Same to same (No. 25)	Jan. 6	The Baron and Baroness Rothschild admitted to the court balls at Vienna: The first time such a distinction has been conferred on persons of Jewish origin.	22

CORRESPONDENCE WITH THE LEGATION OF AUSTRIA-HUNGARY AT WASHINGTON.

No.	From and to whom.	Date.	Subject.	Page.
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22	Chevalier de Tavera to Mr. Bayard.	Dec. 23	Reward to the life-saving crew for aid to the *Kraljevica*: Forty dollars each for four seamen for their bravery in rescuing the crew of the Austrian bark *Kraljevica* and $100 for each family of three who were lost in the attempt, inclosed.	23
23	Mr. Bayard to the Chevalier de Tavera.	Dec. 28	Reward to life-saving crew for aiding the *Kraljevica*: Acknowledging the receipt of $400 sent by the Austrian Government to four men and the families of three who were lost in the attempt to rescue the crew of the Austrian bark *Kraljevica*.	23

BELGIUM.

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24	Mr. Tree to Mr. Bayard (No. 278).	Nov. 30	Flags on the Congo: Article 2 of the decree of the soverign of the Independent State of the Congo, which requires that private vessels navigating the waters of that state beyond the falls of Leopoldville shall hoist at the stern the Congo flag, but permits the hoisting of the flag of her own country, if she possesses papers establishing her nationality, is called to the attention of the Secretary; article 3 fixes penalty for non-observance of article 2; these articles a strange departure, in view of article 2 of the Berlin conference, stipulating for the free navigation of the Congo and of the universal custom according to which all vessels fly the flag of their own country in the waters of another.	24
25	Mr. Bayard to Mr. Tree (No. 90).	Dec. 7	Seizure of the *Henry Reed*, a steamer belonging to the American Baptist Missionary Union, by the Congo authorities; complaint of Rev. A. Billington that Mr. H. M. Stanley attempted to seize the steamer by force, but was prevented by the chief of the Congo station at Stanley Pool, who subsequently caused her to be handed over to Mr. Stanley for forty-five days; that when the steamer was being returned after being kept more than forty-five days it was seized at Bengola by armed soldiers of the Congo State and up to August 3 last was still held; Mr. Tree to remonstrate, to ask the restoration of the steamer, and that an investigation be made; praise of the missionaries; dispatch from Mr. Newton to Mr. Rives and letter of Mr. Billington to Mr. Newton inclosed.	24
26	Mr. Tree to Mr. Bayard (No. 282).	Dec. 15	Debate on the subject of orders given Krupp for cannon: Resolution offered that trial should be first made of cannon made at Liege, but the Government sustained by vote of 65 to 35; size of the army and war budget; work on the fortification of the Meuse progressing.	26
27	Mr. Bayard to Mr. Tree (No. 92).	Dec. 19	Flags on the Congo: By the Congo convention signed at Berlin all nations have the right peacefully to enjoy the trade and navigation of the Congo River and its tributaries; a settled principle of international law that vessels are entitled, and, as a rule, that it is their duty, to carry the flag of their country; a plurality of flags renders a vessel liable to suspicion; quarantine and pilot ensigns not in conflict with the rule, but carrying the flag of another country is; article 2 substitutes the Congo flag for the vessel's national flag, and implies the right of the Congo authorities to determine the vessel's right to fly her national flag; it is the right of each nation to determine the conditions under which a vessel may fly its flag; the rule of the United States is that vessels bona fide owned by its citizens are entitled when abroad to fly the United States flag without regard to the papers they may have; Mr. Tree to protest against the application of the regulations to American vessels.	27

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28	Mr. Tree to Mr. Bayard (No. 283).	Dec. 19	Political: The red flag forbidden to be hoisted in a number of communes as seditious and anti-national; this has been made necessary by its free use by persons hostile to all government; their number is small, but they are a source of irritation to law-abiding people.	28
		1888		
29	Same to same (No. 289).....	Jan. 6	Seizure of the *Henry Reed* by the Congo State authorities seems to be satisfactorily explained: The Congo Government disapproved of Mr. Stanley's action, and claims that its agent did not favor Stanley; the seizure of the steamer through mistake, and reparation speedily made; Captain van Gele believed the boat belonged to the Government, and he had authority to make use of her; the boat returned and full indemnification made; Mr. Tree to the general administrator, etc., of the Independent State of the Congo; Mr. Billington to Lieutenant Liebrechts; Mr. van Eetvelde to Mr. Tree, and Mr. Tree to the general administrator, etc., of the Independent State of the Congo, inclosed.	29
30	Same to same (No. 294).....	Jan. 16	Flags on the Congo: Protest made in regard to the decree of the Congo State concerning the flying of flags; the case of the *Henry Reed*, being covered by the general principles, not alluded to; copy of note to Mr. van Eetvelde, inclosed.	33
31	Mr. Bayard to Mr. Tree (No. 96).	Jan. 26	Seizure of the *Henry Reed:* Satisfaction of the Department at the restitution of the vessel and payment of indemnity to her owners.	34
32	Same to same (No. 97).....	Jan. 30	Spielmarken: Importation from Belgium of pieces of metal closely resembling the several gold coins of the United States, and known as "spielmarken," and of imitations of coins, postage-stamps, and other obligations of foreign and our Governments, for fraudulent use; inquiry to be made whether their manufacture is prohibited by the laws of Belgium, and report to the Department; letter to Mr. Bayard from Mr. Fairchild, covering letter to Mr. Fairchild from Mr. Brooks, inclosed.	35
33	Mr. Tree to Mr. Bayard (No. 305).	Feb. 11	Flags on the Congo: Attention called to the fact that Mr. van Eetvelde discusses the Congo as though it were territorial water; Mr. van Eetvelde to Mr. Tree, and Mr. Tree's answer inclosed.	36
34	Same to same (No. 318).....	Mar. 17	Bonds of the Independent State of the Congo: 100,000 bonds of 100 francs, the first of a loan of 150,000,000 francs authorized to be borrowed, offered, and 118,000 subscribed for in three days: The secret of success due to its lottery feature; price, 83 francs; they bear no regular interest, but there will be six drawings annually, and prizes given to those bearing certain numbers; by the plan of redemption a certain number of the bonds are to be redeemed the first year at 105, 5 francs being added thereto for each year, and the whole is to be redeemed by the end of a century.	40
35	Same to same (No. 321).....	Mar. 30	Spielmarken: The question whether or not the laws of Belgium prohibit their manufacture not answered, but Mr. Tree informed from other sources that they do not; Mr. Tree to Prince de Chimay, and the reply of the prince inclosed.	41
36	Same to same (No. 331).....	May 11	Spielmarken: A law proposed to prohibit their manufacture; its passage expected at this or the next session of Parliament; no prohibitory law at present existing.	42
37	Same to same (No. 359).....	June 30	Specimens of the first moneys coined by the Independent State of the Congo sent by post.	43
38	Same to same (No. 387).....	Sept. 25	Reception by the King: Remarks on presenting his letter of credence, and reply of the King; has with him a long conversation; the King returned to Brussels.	43

CORRESPONDENCE WITH THE LEGATION OF BELGIUM AT WASHINGTON.

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		1887.		
39	Count d'Arschot to Mr. Bayard.	July 12	International exhibition of sciences and industry to be held at Brussels in 1888: Its object to better and cheapen production; Mr. Bayard's attention called to it, with the request that he will make it known in the United States.	44
40	Mr. Bayard to Count d'Arschot.	July 29	International exhibition to be held at Brussels: Publicity given to it through the press; a commission can not be sent except by an act of Congress, and that can only be requested upon receiving a formal invitation to this Government to participate.	45
		1888.		
41	Mr. de Melsbroeck to Mr. Bayard.	Feb. 3	International Exposition of Sciences and Industries: The United States invited to take part in the international exposition to take place at Belgium in May, 1889; the executive committee of American exhibitors have appointed Mr. John Bigelow their delegate.	45
42	Same to same	Feb. 29	Peddling: Requests to know the law of the United States on peddling, as it is the custom of Belgian manufacturers to send peddlers abroad.	46
43	Same to same	Feb. 29	Annual prize of 25,000 francs by King of Belgium to encourage intellectual effort: To be awarded for the year 1893 to the best work on supplying cities with potable water; Americans invited to compete; the notice inclosed.	46
44	Mr. Bayard to Mr. de Melsbroeck.	Mar. 5	Peddling: Uncertain whether Mr. de Melsbroeck's note of the 29th February referred to peddlers or commercial travelers. The laws governing both are made by the States, are dis similar, and frequently changed, and it would be impossible to give all. Will send the laws of any States, if informed what manner of peddling is meant.	47
45	Mr. de Melsbroeck to Mr. Bayard.	Mar. 27	Citizenship of American-born children: Requests copy of circular of the United States Department of State, issued 1856 or 1857, declaring that every child born in the United States, whether its parents are naturalized or not, can claim the quality of American citizenship, and asks to know if this is still the law.	48
46	Mr. Bayard to Mr. de Melsbroeck.	Apr. 2	Citizenship of American-born children: Nothing known of the circular requested by Mr. de Melsbroeck's note of March 27. The existing provisions are found in section 1992, United States Revised Statutes, and section 1 of the XIV amendment to the Constitution. In an instruction to Mr. Mason, then minister to France, in 1854, it is stated that, according to common law, any person born in the United States, not in a foreign legation therein, may be considered a citizen thereof until he formally renounces it; but there had not been at that time a statute or judicial decision. The United States Attorney-General in 1859 gave an opinion that a free white person born of foreign parents in the United States is a citizen thereof. Constitutional provisions and statutes subsequent to these will control; the general rule that the individual has the right of election on becoming *sui juris*.	48
47	Mr. de Melsbroeck to Mr. Bayard.	June 30	Census of foreign residents: Advantages of governments exchanging with each other the census of foreigners residing in their territory; asks if the United States will enter into a convention to that effect with Begium; sends census card used in Belgium, and requests information as to manner of taking census in the United States.	49
48	Same to same	Aug. 29	The Belgian Government is gratified that the rank of the United States representative to that country has been raised to envoy extraordinary and minister plenipotentiary.	50
49	Mr. Bayard to Mr. de Melsbroeck.	Aug. 31	Is pleased to learn that the advancement in rank of the United States mission to Belgium has given that Government gratification.	50

BOLIVIA.

No.	From and to whom.	Date.	Subject.	Page.
		1888.		
50	Mr. Carlisle to Mr. Bayard (No. 36).	Sept. 10	Political: Aniceto Arce elected President and José Manuel del Carpio Vice-President of Bolivia; members of cabinet continued by 1st exec. decree; revolutionary party overwhelmingly defeated; the President's inaugural address inclosed.	51
51	Same to same (No. 41)	Oct. 6	Political: Military insurrection at Sucre serious; murders and crimes committed; provisional government set up by insurgents under Belisario Salinas; flight of President Arce; the country proclaimed in a state of siege and arrest of suspected persons ordered; arrest of General Camacho and friends; southern army insurgent, northern loyal; preparations for battle; defection among state troops feared; desertion of the Chorolque battalion; decisive events expected.	52
52	Same to same (No. 44)	Oct. 22	Political: Military insurrection at Sucre suppressed; insurgents routed; proclamation issued re-assembling Congress; discontent in the north that Sucre remains the seat of government.	53
53	Mr. Bayard to Mr. Carlisle (No. 27).	Nov. 30	Political: Gratification of the Department at the suppression of the military insurrection and hope for peace and prosperity of Bolivia.	54

BRAZIL.

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54	Mr. Jarvis to Mr. Bayard (No. 112).	Oct. 26	Telegraph lines: Application of the Pedro Segundo Telegraph and Cable Company for an extension of one year of the time in which the line was to be completed; six months granted, and six more promised if it be shown that the company is not to blame for its non-completion in that time. Note of the Brazilian minister of foreign affairs on the subject inclosed.	55
55	Same to same (No. 114)	Nov. 10	Quarantine Convention with the Argentine Republic and Uruguay: Better relations established between Brazil and the Argentine Republic by the settlement of disputed boundary and by a sanitary convention (not yet signed) regulating quarantine in the two countries, owing to the different regulations of which previously much injury had been done to the commerce of both countries and irritation produced.	55
		1888.		
56	Mr. Bayard to Mr. Jarvis (No. 78).	Feb. 10	Emigration of negroes to Brazil from the United States: The Department has no knowledge on the subject; letter from Mr. S. W. Hill inclosed.	56
57	Mr. Jarvis to Mr. Bayard (No. 122).	Mar. 12	Political: Fall of the Cortegipe ministry; its immediate cause a conflict with the navy. It had been previously weakened by its attitude in opposition to the abolition of slavery and by a dispute with the army on account of a newspaper article written by an army officer criticising government officials. The conflict with the navy started by the arrest of a naval officer in citizen's dress for disorderly conduct. A conflict ensued between his fellow officers and the police when the ministry tendered their resignation, which was accepted; the new ministry.	57
58	Same to same (No. 123)	Mar. 27	Emigration of negroes from the United States to Brazil: No information of attempt to induce the negroes from the Southern States to emigrate to Brazil. There are immigration societies, but they have only looked to Europe. Thinks the report without foundation. Article from the Rio Daily News inclosed.	59
59	Same to same (No. 128).....	May 12	Trade-marks: Law of Brazil concerning trade-marks inclosed.	62
60	Same to same (No. 129).....	May 14	Slavery abolished in Brazil. No labor complications anticipated. Translation of law inclosed.	72

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61	Mr. Bayard to Mr. Jarvis (No. 90).	June 13	Abolition of slavery in Brazil communicated in a telegram by Mr. Silva. The President telegraphs his congratulations. Sympathy of all with Brazil. Gratified to learn that the public mind and labor system are prepared for the change.	73
62	Mr. Jarvis to Mr. Bayard (No. 145).	Aug. 31	Political: Arrival of the Emperor; joy and demonstrations of the people. Bitterness of ex-slave-owners against the Princess. They organize a "Republican party" and agitate for a republic.	74

CORRESPONDENCE WITH THE LEGATION OF BRAZIL, AT WASHINGTON.

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63	Mr. da Costa to Mr. Bayard.	July 31	Abolition of slavery: Conveys the thanks of the Brazilian Government for the congratulations of the President.	75
64	Mr. Bayard to Mr. da Costa.	Aug. 9	Abolition of slavery: The President is gratified that his remarks, which proceeded from a feeling of amity and an appreciation of the magnitude of the reform, should have been pleasing to the Brazilian Government.	75

CENTRAL AMERICA.

		1887.		
65	Mr. Hall to Mr. Bayard (No. 698).	Aug. 22	Claim of Italy against Salvador on account of the decision of the Salvadorian courts that the sale of the national printing press by the President to an Italian was illegal. Mr. Hall consulted by the Italian representative. The minister of Salvador at Paris directed to settle the claim with the Italian minister there. Salvador asks the United States to mediate, claim, 2,000,000 francs. Telegram from Mr. Delgado and from Mr. Hall to the Department inclosed.	77
66	Same to same (No. 709).....	Sept. 27	Claim of Italy against Salvador: The reply that without further information the United States Government hesitates to offer mediation communicated to the Salvadorian minister. Offer by Salvadorian minister of a sum certain to settle claim can not be authorized, as the account has not been adjusted. New Italian minister with instructions expected. The claimant gone to Italy. Telegrams, Mr. Hall to Mr. Delgado and Mr. Delgado to Mr. Hall, inclosed.	78
67	Same to same (No. 712).....	Sept. 28	Boundary dispute between Nicaragua and Costa Rica: The President of Nicaragua telegraphs the rejection by Nicaragua of the boundary convention of 1887 with Costa Rica, and that arbitration by the President of the United States remains, according to the convention of 1886, between the two States.	79
68	Mr. Bayard to Mr. Hall (No. 505).	Oct. 7	Boundary dispute between Nicaragua and Costa Rica: The telegram stating that Nicaragua had rejected the boundary convention with Costa Rica received. Already informed by the ministers of those Governments. Regret expressed in answering the note of the Costa Rican minister.	79
69	Mr. Hall to Mr. Bayard (No. 716).	Oct. 7	Political: The message of the President of Guatemala opens with the enunciation of popular sovereignty; that legislation for two years past had been against the interests of the people; that it was impossible to save the national credit except by assuming the supreme executive power, which had been approved by the people; that Mexico at first refused, but now all foreign powers recognized the new order of things. The remainder of the message relates to domestic affairs. Perfect accord between the national administration and legislative assembly. Synopsis of the message inclosed.	80

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		1887.		
70	Mr. Hall to Mr. Bayard (No. 717.)	Oct. 7	Representation of Guatemala by United States representatives: Request from Señor Montufar, that where Guatemala has no representatives, those of the United States shall represent Guatemala, made under the mistaken impression that United States representatives represent Switzerland as they do the United States. This explained to Señor Montufar, with a promise to communicate his request. Translation of Señor Montufar's note inclosed.	82
71	Same to same (No. 718).....	Oct. 12	Discrimination against United States vessels in favor of the Spanish Central American line: Contract between the Government of Costa Rica and the Spanish Central American line of steamships gives a rebate of 5 per cent. on goods imported by that line. Communication with the Costa Rican Government deferred because of the report that the rebate would be extended to all lines. This has not been done, and the Spanish line has begun its trips. Copy of the contract and of note to Costa Rican minister inclosed.	83
72	Same to same (No. 729).....	Oct. 31	Polit cal: Attempt of Don Vicente Castanedo to capture the town of Huehuetenango. His repulse, capture, and execution, together with four of his officers. Four insurrectionary leaders near the frontier of Salvador captured and shot. The revolutionary attempts to have been made two months ago. The affair at La Libertad a part of the plan. The insurgent organizations broken up. No popular sympathy given them. Official and unofficial reports published by the Government of Guatemala inclosed.	87
73	Mr. Bayard to Mr. Hall (No. 516).	Nov. 2	Discrimination against United States vess ls: Department has received letters from the Pacific Mail Steam-ship Company with regard to the discrimination in favor of the Spanish Central American Line, and all correspondence was submitted to the Secretary of the Treasury with a view to the application of section 2502, United States Revised Statutes. Pending his decision, a letter was received from the Pacific Mail Company, saying they were informed that Guatemala would soon withdraw her discriminating duties, and they believed the other States would do the same. In consequence the Secretary of the Treasury will take no action at present. This is indicative of the good-will of the United States and their unwillingness to retaliate. Hopes the discrimination will soon be removed.	90
74	Same to same (No. 517).....	Nov. 5	Discrimination against United States vessels: Copy of Mr. Hall's dispatch No. 718, in regard to the rebate of 5 per cent. granted to the Spanish Central American Line by the Government of Costa Rica, sent to the Secretary of the Treasury.	91
75	Same to same (No. 523)	Dec. 6	Seizure of the *William S. Moore*: Affidavit of Henry Nelson, master of the *William S. Moore*, stating that on November 20, 1887, while at anchor in Rama River, Musquito Reservation, his vessel was forcibly seized by an armed body of men wearing the Nicaraguan uniform. Directs that the complaint be presented to the Nicaraguan Government with a view to an investigation and explanation or reparation. Affidavit inclosed.	91
76	Mr. Hall to Mr. Bayard (No. 749.)	Dec. 8	Contract made by the Guatemalan Government with J. T. Anderson, United States vice-consul at Livingston, to build a railroad from the capital to the Atlantic: Former contract with Martin Roberts. Attention called to Article IX, pledging the Government to use its power to enforce contracts made with laborers, which probably means imprisonment and other arbitary treatment of laborers. The road undertaken by the Government in 1883 and abandoned in 1885, and the contract for the first 60 miles with Messrs. Shea, Cormick & Co. broken, who assigned to creditors. Several adjustments repudiated, and the claim a subject of	92

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1887.		
76	Mr. Hall to Mr. Bayard (No. 749)—Continued.	Dec. 8	diplomatic correspondence for a year. Death and destitution among the laborers until relieved by the United States steamer *Swatara*. Government inclined to keep the present contract. Article IX of the contract inclosed.	
77	Same to same (No. 750).....	Dec. 8	Discriminatory duties against United States vessels, in favor of those of Pedro Terres: Contract of the Government of Costa Rica, of July 5, 1887, with its citizen, Pedro Terres, granting exemption from light and tonnage dues to the vessels of his line from Port Limon to Europe, and a rebate of 5 per cent. for duties on goods imported in them, subsequently extended to his vessels on the Pacific, seems to be in conflict with Articles IV and V of the treaty of 1851 with the United States, which placed the vessels of both nations on an equality. Translation of contract inclosed.	93
78	Mr. Bayard to Mr. Hall (No. 525.)	Dec. 9	Discrimination against United States vessels: The Acting Secretary of the Treasury advises that, in view of the statement of the Pacific Mail Steamship Company that the Central American Government are expected shortly to withdraw their discrimination against American vessels, it is not deemed expedient to act in the matter, and requests to be advised by this Department of any further developments.	95
79	Mr. Hall to Mr. Bayard (No. 752.)	Dec. 10	Discrimination against United States vessels: No reply received to note to the minister of Costa Rica on the 5 per cent. rebate granted the Spanish line. Four of that company's vessels running. The rebate sufficient to exclude American vessels. One of the company's vessels flies the Costa Rica flag. The contention that it is no violation of treaty obligations to grant rebate to vessels of other nationality not applicable to vessels sailing under Costa Rica's flag. The treaty of 1851 provides for the same duties upon importations in United States and Costa Rican vessels. Similar discrimination by the United States justifiable. Letter of the Costa Rican consul at Panama to the minister for foreign affairs; reply of the United States consul at San José to Mr. Hall and two letters from Mr. Leverich inclosed.	95
80	Same to same (No. 752).....	Dec. 10	Discrimination against United States vessels: The Guatemalan Government has not withdrawn the discriminating duty of $\frac{1}{10}$ of 1 per cent. against American vessels, and probably will not until the contract is abrogated; the Nicaraguan Government has withdrawn its rebate of 2 per cent.; the Government of Honduras has not withdrawn its rebate of 2 per cent.; the Guatemalan Government imposes a discriminating duty of $\frac{1}{10}$ of 1 per cent. on regular American lines, and 3 per cent. on all other vessels, Costa Rica imposes a 5 per cent. duty on all American vessels on the Pacific coast; Honduras imposes a discriminating duty of 2 per cent. on American vessels; Salvador concedes a rebate of 3 per cent. to all regular lines; Nicaragua has no rebate or discriminating duty.	98
81	Same to same (No. 753).....	Dec. 12	Seizure of the *Merida* and *W. S. Moore*: The *Merida* appears under the name of John H. Patterson, of Red Bank, N. J., in the annual report of merchant vessels, 1876–'77; came to Nicaragua in 1876, was sold to Nicaraguans in 1882, sold in 1886 to an American who has since displayed the United States flag; will ask the Nicaraguan Government to investigate; expects they will be returned by the commissioner now in the reservation, if facts are as stated. Letter of United States consul at San Juan del Norte, Nicaragua, and from Mr. Allen to United States consular agent at Bluefields, inclosed.	98
82	Same to same (No. 754).....	Dec. 15	Nicaraguan canal: The Costa Rican Government interdicts surveying on its territory for the purpose of locating the canal without its express permission. Telegram from the President of Nicaragua inclosed.	100

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1887.		
83	Mr. Hall to Mr. Bayard (No. 755).	Dec. 21	Nicaraguan Canal: Costa Rica grants permission for surveying the canal routes on her territory; foreign minister of Costa Rica protests against the present canal concessions as against the treaty of 1858, Costa Rica not having been consulted; he states, that treaty is in force till declared null by the arbitrator; that the rights of Costa Rica to the San Juan River and Bay are attacked; that Costa Rican river trade will be injured, its river courses changed, etc.; that there is no desire to obstruct the canal, which is much desired. These complaints unfounded. Raising the level of the San Juan will make navigable Costa Rican streams, before unnavigable; the canal will make va uable the land near it, now of little value, as is shown by President Soto, ex-President Fernandez, and others buying large tracts. The minister of Nicaragua replies that the treaty of 1858 was beyond discussion while under arbitration; that the action of Costa Rica seemed merely to obstruct the canal, and was in opposition to previous conduct; that this concession was the same as that of 1880, in regard to which Costa Rica had not been consulted, but had approved. The rejection of the treaty of July has aroused the resentment of Costa Rica. Mr. Esquivel to Mr. Zavala and Mr. Zavala's reply inclosed.	101
84	Same to same (No. 756).....	Dec. 21	Seizure of the *Merida* and *W. S. Moore:* The *Merida* restored; confident the *W. S. Moore* will be returned also; Mr. Brown to Mr. Hall inclosed.	106
		1888.		
85	Same to same (No. 763).....	Jan. 6	Claim of Italy against Salvador: Italian Government directed its chargé d'affaires to effect a settlement with Salvador, and he has requested Mr. Hall's good offices; Department's instruction in the matter received; the Italian chargé will proceed to Salvador the 18th instant; Mr. Hall has offered his good offices to the Salvadorian Government, and, if accepted, he will go there about the same time.	107
86	Mr. Bayard to Mr. Hall (No. 533).	Jan. 7	Contract between the Guatemalan Government and Mr. J. T. Anderson (Article IX), relating to the right of the contractor to import laborers, other than Chinese, and the obligation of that Government to enforce contracts with such laborers made abroad, has been received and examined, but the question is too general for instructions.	108
87	Mr. Hall to Mr. Bayard (No. 766).	Jan. 11	Champerico and Northern Transportation Company: Grant by the Government of Guatemala in 1881 to Messrs. Lyman, Bunting & Fenner, American citizens, of a concession for the construction and operation of a railroad from Champerico to Retalhuleu, with the stipulation that no other road should be built within 15 leagues on either side; the concession subsequently transferred to the Champerico and Northern Transportation Company of Guatemala, organized under the laws of California; the road completed and accepted by the Government in 1884; a concession recently given Messrs. J. S. Bueron & Co. to build a road from Ocos to Quesaltenango, within that distance, in spite of the Champerico Company's protest; no official correspondence on the subject, except information to the minister of foreign affairs of filing of protest at the legation; the question submitted by the minister to Mr. Rockstroh, who reports the concession an infringement of the Champerico Company's rights; the Ocos contract held under advisement for a month and signed by the President December 15, 1887; does not deem it necessary to send copy; Mr. Robinson to Mr. Hall, November 15, 1887, inclosing his protest to the Guatemalan Government; report of Mr. Rockstroh upon Article II of the contract of the Champerico Railway Company with the Government of Guatemala, and the translation of the Champerico Railway concession inclosed.	108

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1888.		
88	Mr. Bayard to Mr. Hall (No. 538).	Jan. 23	Discrimination against United States vessels: Transmits a copy of a letter from the Pacific Steam-ship Company in regard to the continued discrimination of 5 per cent. against American vessels in favor of the Spanish Central American Line; copy of correspondence has been laid before the Secretary of the Treasury; Mr. Lane's letter inclosed.	116
89	Same to same (No. 540).....	Jan. 25	Claim of Julius R. Schultz, under Title LXXII of the United States Revised Statutes, as discoverer of guano deposits on Vivorilla Key, off the coast of Honduras: Mr. J. G. Moale informed that Department's decision is deferred, owing to a question of sovereignty over the island; directs that it be ascertained whether Honduras, or other nation, has dominion over Vivorilla Key; refers to Mr. Hall's No. 41, December 14, 1882; affidavit of Mr. Schultz inclosed.	119
90	Same to same (No. 543).....	Jan. 28	Claim of Italy against Salvador: Gratification at the settlement of the Italian claim, especially in view of its resulting from Mr. Hall's good offices.	120
91	Mr. Hall to Mr. Bayard (No. 769).	Jan. 30	Claim of Italy against Salvador: Finding the Italian chargé d'affaires and Salvadorian Government unable to agree. he suggests the offer of a specific sum, which was done, and $270,000 agreed upon in full payment of the Italian claim; his offer of good offices and telegram accepting it by Salvadorian Government inclosed.	120
92	Same to same (No. 770).....	Jan. 30	Discrimination against United States vessels in favor of the Spanish Central American Line still maintained: Trip made by the *Costa Rica* of that line; information sent Department by telegram.	121
93	Same to same (No. 771).....	Feb. 4	Seizure of the *Merida:* The facts misstated; after carrying the Nicaraguan flag she was sold to N. P. Allen, a United States citizen, who turned her into a liquor shop and gambling house, outside the reservation, raised the United States flag and claimed exterritoriality; General Urtecho's letter to the consular agent at Bluefields, probably a true account; note from the Nicaraguan minister and accompanying correspondence on the seizure of the two vessels carrying the United States flag inclosed.	122
94	Mr. Bayard to Mr Hall (No. 549).	Feb. 6	Discrimination against United States vessels: Copy of letter of the Secretary of the Treasury, relative to imposition of retaliatory discriminatory duties on goods imported by the Spanish Central American Line inclosed.	124
95	Same to same (No. 550).....	Feb. 7	The Champerico and Northern Transportation Company, which complains that the Guatemalan Government has violated the contract with it by the concession to Messrs. Bueron & Co. to build a road from Ocos to Quesaltenango, must present a memorial properly sworn to and supported by affidavits for this Department to act in the matter.	126
96	Mr. Hall to Mr. Bayard (No. 773).	Feb. 10	Discrimination against United States vessels: Decree of Salvadorian Government extending rebate of 3 per cent. to all regular lines of vessels revoked January 28, 1888, as the Marquis de Campo failed to fulfill his agreement; his steamers running, but not with regularity; nothing said of the contracts of May 6, 1886, and June 14, 1887, but supposes they have lapsed; copy of decree of January 28, 1888, inclosed.	126
97	Same to same (No. 775).....	Feb. 16	Discrimination against United States vessels: Note received from the minister for foreign affairs of Costa Rica in answer to one written three months before on the subject of the discriminating duty of 5 per cent.; the minister refers to similar contracts with British and German lines on the Atlantic coast; the minister's note and a reply thereto inclosed.	127

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1888.		
98	Mr. Bayard to Mr. Hall (No. 554).	Feb. 27	Union of the Central American Republics: Hopes that there is no ground for apprehension of renewal of enforced union of the Central American States by Guatemala; interest of the United States in the canal, which would be injured; military movements injurious to peaceful operations; directs that it be ascertained whether there is any ground for such apprehension, and that the sentiments of the United States Government on the subject be conveyed to that of Guatemala.	131
99	Mr. Hall to Mr. Bayard (No. 779).	Mar. 16	Claim of J. R. Schultz for discovery of guano deposits: Vivorilla Key is within the jurisdiction of Honduras; is 33 miles north of Coratzca Lagoon; copy of telegrams to this effect to the Department; telegrams exchanged between Mr. Hall and Señor Zelaya upon the subject inclosed.	132
100	Same to same (No. 788)	Mar. 16	Union of Central American Republic: Thinks the rumors of Central American consolidation without foundation, but will obtain authoritative statement.	133
101	Mr. Bayard to Mr. Hall (No. 560).	Mar. 23	Claim of Italy against Salvador: Letter from the minister of Italy here, giving the thanks of his Government for Mr. Hall's good offices in the settlement of the Italian claim against Salvador, inclosed.	133
102	Same to same (No. 562).....	Mar. 27	Boundary dispute between Nicaragua and Costa Rica: Report of Mr. Rives to the President, and the President's decision as arbitrator between Nicaragua and Costa Rica, concerning the validity of the treaty of limits of 1858 between those Republics; one copy to be filed in the legation, the others at his disposal; originals were given to the ministers of Nicaragua and Costa Rica, and copies sent to consuls at Nicaragua, San José de Costa Rica, and San Juan del Norte; report and decisions as above inclosed.	134
103	Same to same (No. 563)	Mar. 27	Champerico and Northern Transportation Company: Mr. Sanford Robinson's memorial received; résumé of it; directs an unofficial presentation of the complaint to be made to the Government of Guatemala, to urge the importance of good faith on the part of that Government in its contracts; the question can not be disposed of by arbitration; the contract did not deprive United States citizens of the right to resort to their Government; instances in which this position has been held in other similar cases; memorial of Mr. Robinson inclosed.	134
104	Mr. Hall to Mr. Bayard (No. 793).	Mar. 27	Discrimination against United States vessels: Guatemalan decree, extending the rebate in duties to all regular lines previously transmitted; the Spanish lines have had a rebate of 3 per cent., the regular American lines $2\frac{2}{10}$; the Spanish steamers are to be withdrawn from Guatemalan waters, and a decree has removed all rebates; rebates already removed by Salvador; decree of the Government of Guatemala removing rebates inclosed.	141
105	Same to same (No. 798).....	Apr. 3	Right of citizens of United States to sue in Guatemalan courts of law: Mr. Concepcion Pinto asks if the peace and friendship part of the treaty of 1849 between Guatemala and the United States is not in force, and therefore Article XII, which gives the right of free resort to courts of law; Mr. Pinto has brought suit against the International Bank of Guatemala, and it has been petitioned that he be made to give security, which is not done with natives; Mr. Pinto's letter inclosed.	142
106	Same to same (No. 800).....	Apr. 4	Claim of Italy against Salvador: The protocol settling the claim approved conditionally upon a rebate of one-third, which belongs to ex-President Zaldivar; this has been agreed to by the chargé d'affaires of Italy. Calls attention to expression of appreciation of Mr. Hall's services; copy of note inclosed.	143

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
107	Mr. Hall to Mr. Bayard (No. 801).	1888. Apr. 5	Union of Central American Republics: The minister of Guatemala declares the rumors prevalent in Nicaragua of an intention on the part of Guatemala to force a union of the Central American States groundless; that only lawful means are contemplated, and refers to the treaty of 1887 as having been concluded for the same purpose; "Lawful means" somewhat ambiguous;" note requesting disclaimer of any other means than those provided in the treaty of 1887 answered as indefinitely as the former one; no resort to coercive methods likely; Mr. Hall to Mr. Barrutia of March 17, and 29, 1888, and replies of Mr. Barrutia of May 28 and April 5, 1888, inclosed.	144
108	Mr. Bayard to Mr. Hosmer (No. 571).	Apr. 27	Discrimination against United States vessels: Letter of the Secretary of the Treasury explaining that the withdrawal of the Spanish steamers related exclusively to Guatemala, and Mr. Bayard's reply thereto inclosed.	148
109	Same to same (No. 574).....	Apr. 30	Right of citizens of the United States to sue in Guatemalan courts of law: Notice was given by Guatemalan Government and the treaty of 1849, terminated in November, 1874, but that part relating to peace and friendship is still in force, under which come the right to resort freely to courts of law, to security of conscience, and to Christian burial; directs the Guatemalan Government be informed that such part of the treaty was not terminable and was not terminated by the notice given in 1873.	149
110	Same to same (No. 575).....	May 1	Discrimination against United States vessels: Directs that it be ascertained whether the Spanish steamers have been withdrawn and whether the discrimination continues; letter from the Pacific Company to the Secretary of the Treasury and that Secretary's reply inclosed.	151
111	Mr. Hosmer to Mr. Bayard (No. 809).	May 9	Champerico and Northern Transportation Company: The attention of the Guatemalan Government called to the alleged violations of its contract with the Champerico and Northern Transportation Company by its contract with J. L. Bueron *et al.*, and the mistake made in the distance between Champerico and Ocos, and requests that the latter contract be rescinded; no reply received; wishes to allow time for any mistake to be corrected; is fully instructed what to do; the note to the Guatemalan minister inclosed.	152
112	Same to same (No. 817).....	June 5	Discrimination against United States vessels in favor of the Spanish line of steamers has been revoked by the Costa Rican Government; note of the Guatemalan minister for foreign affairs and deeree of revocation inclosed.	154
113	Mr. Hosmer to Mr. Bayard (No. 818).	June 9	Right of citizens of the United States to sue in Guatemalan courts of law: Instructions received giving reasons why the clause relating to peace and friendship in the annulled treaty between Guatemala and the United States should be still in force; note to the Guatemalan minister for foreign affairs inclosed.	155
114	Same to same (No. 819).....	June 9	Champerico and Northern Transportation Company: The reply of Minister Barrutia to note in behalf of the Champerico and Northern Transportation Company, and rejoinder thereto, inclosed.	156
115	Same to same (No. 823).....	June 21	Right of citizens of the United States to sue in Guatemalan courts of law: Minister Barrutia concurs in the views expressed in a note to him by Mr. Hosmer in respect to the clause of peace and friendship in the annulled treaty between Guatemala and the United States; Mr. Barrutia's note inclosed.	158
116	Mr. Bayard to Mr. Hall (No. 596).	July 11	Contracts of German and English steam-ship lines with the Costa Rican Government: Full information in regard to, desired.	159

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
117	Mr. Hall to Mr. Bayard (No. 835).	1888. July 21	Free port of Livingston and free zone abolished and the custom-house removed to Yzabal. Interests of foreign residents in the free zone threatened; the Guatemalan Government notified of this and postponement of the enforcement of the decree suggested; Department's attention invited to a similar case which occurred in Costa Rica in 1884; decree of 1883 making Livingston a free port, and providing for a free zone, decree of 1888 revoking the above, note of Mr. Hall to Minister Sobral in reference to the decree of revocation, and Minister Sobral's reply inclosed.	159
118	Mr. Bayard to Mr. Hall (No. 608).	Aug. 14	Free port of Livingston and free zone: Mr. Hall's protest against the decree of the Guatemalan Government revoking its decree of 1882, which established the free port of Livingston and its surrounding free zone, approved; the instructions given in 1884 as to a similar case in Costa Rica will be his guide.	162
119	Mr. Hall to Mr. Bayard (No. 844).	Aug. 14	Free port of Livingston and free zone: The Guatemalan Government has temporarily suspended that part of the decree which abolishes the free zone; the custom-house removed to Yzabal; Executive order suspending the article abolishing the free zone inclosed.	162
120	Same to same (No. 857).....	Sept. 4	Champerico and Northern Transportation Company: Two notes written by Mr. Hosmer while chargé to the Guatemalan minister with regard to the complaint of the Champerico and Northern Transportation Company, the last unanswered; many interviews had with Señor Sobral, who agreed that the concession to Messrs. Bueron & Co. should be revoked or canceled; Mr. Bueron confers with Mr. Sobral, and Mr. Hall informed that the concession would be canceled, but it is not; Mr. Bueron merely files a memorial asking modification of contract; Mr. Robinson states that the company at the time of the Bueron concession was negotiating sale of its property; on 1st instant addressed a note to Mr. Sobral requesting an answer to Mr. Hosmer's of June 9; is shown in the evening draught of a document to be sent to Mr. Bueron to sign, in consonance with the promises made; note of 1st instant to Señor Sobral inclosed.	163
121	Same to same (No. 863).....	Sept. 10	Congress of Central American States: Article 26 of the treaty between the Central American Republics provides for a congress to meet every two years at the different capitals, first meeting to be September 15, 1888, at that of Costa Rica; Salvador has signed the treaty with some amendments; Nicaragua has taken no action upon it; the others have signed unconditionally; names of the delegates.	165
122	Mr. Bayard to Mr. Hall (No. 617).	Sept. 11	Champerico and Northern Transportation Company: Telegram stating that the Guatemalan Government sustains the Bueron contract, and asking instructions received; the Government of the United States does not interfere, except unofficially, in the complaints of its citizens against a foreign country, unless they are discriminated against or refused redress in the courts of that country; this is merely a breach of contract, and does not come under either of those two heads.	165
123	Same to same (No. 621).....	Sept. 17	Discrimination against U. S. vessels: In consequence of statements of Mr. Hall in regard to discriminatory duties applied to U. S. vessels in Costa Rican ports, instructions would be given to United States customs officers to imposes discriminating duties on importations into the United States in Costa Rican vessels; Mr. Fairchild to Mr. Bayard, September 12, 1888, inclosed.	166

CENTRAL AMERICA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1888.		
124	Mr. Hall to Mr. Bayard (No. 868).	Sept. 19	Treatment of foreigners in Guatemala: Order of the Guatemalan Government to the prefects of the departments, and judicial, administrative, and military authorities, caused by the affair at Livingston, instructing them as to their conduct towards foreigners, and to communicate by telegraph with the minister for foreign affairs in cases of difficulty, before taking action, inclosed.	167
125	Mr. Bayard to Mr. Hall (No. 624).	Sept. 27	Champerico and Northern Transportation Company: Mr. Hall's diligence in pressing the complaint commended, and regret expressed at the delays and evasions of the Guatemalan Government.	168
126	Mr. Hall to Mr. Bayard (No. 871).	Sept. 29	Champerico and Northern Transportation Company: The concession to Bueron & Co. to build a railroad from Ocos to Quezaltenango surrendered to the Guatemalan Government.	169
127	Mr. Bayard to Mr. Hall (No. 633).	Oct. 26	Champerico and Northern Transportation Company: Gratification at the settlement of the complaint of the company by the surrender of the concession to Bueron & Co.	169
128	Mr. Hall to Mr. Bayard (No. 883).	Nov. 7	Champerico and Northern Transportation Company: Mr. Hall's note to Señor Sobral, and the latter's reply confirming the cancellation of the concession to Messs. J. L. Bueron & Co., inclosed.	170

CHILI.

		1887.		
129	Mr. Roberts to Mr. Bayard (No. 162).	Oct. 7	Claims against Chili: The Anglo-Chilian tribunal adjourns *sine die*, and England accepts $100,000 in liquidation of twenty-one claims, amounting to $6,000,000; the Italian-Chilian tribunal has given no decisions; the French claims stand as before; thinks the French Government will accept Chili's offer; Spain awaiting the dissolution of the tribunals to present her claims.	172
130	Same to same (No. 164)	Oct. 28	Claims against Chili: The decision of the English tribunal in the claim of the Peruvian Guano Company, limited, for damages to the extent of £792,233.13.5 by reason of not being able to carry out its contract on account of war, declaring that tribunal incompetent to try the case, was published after writing dispatch No. 162 and alters the figures therein given, which should read that twenty claims amounting to $300,291 were settled for $100,000.	172
131	Same to same (No. 166)	Nov. 11	Cholera has extended to the south of Chili; expectation that it will be very destructive to life; possibility of mails by way of Panama being stopped; Chilian vessels not allowed to enter Colombian ports; Mails sent through Peru, but that country will probably close her ports; no reason for Colombia's action, on account of the length of the voyage from Chili.	178
132	Same to same (No. 168)	Nov. 30	Quarantine of Colombian Ecuadorian, and Peruvian ports against Chili; the exclusion unjustifiable; that cholera is likely to be an annual visitor an important consideration; thinks other than sanitary reasons caused the action of Colombia; this dispatch to go to San Francisco, Cal.; may send hereafter by way of Europe; daily deaths from cholera in Santiago twenty, 30 per cent. infected die; disease has not increased, but more fatal to well-to-do-class; no excitement or panic.	179
133	Mr. Bayard to Mr. Roberts (No. 73).	Dec. 5	Claims of American citizens against Chili: Complaints received from the citizens of the United States having claims against Chili of delay; has explained to them that the arbitration tribunals agreed upon by other governments having similar claims have proved unsatisfactory, and it has been deemed best to await some other settlement; it seems probable that there will be a compromise of the claims now before the arbitration tribunals, and it would not seem to be expecting too much for the Chilian Government	180

CHILI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1887.		
133	Mr. Bayard to Mr. Roberts (No. 73)—Continued.	Dec. 5	to take into consideration the negotiation of a convention for the adjustment of claims of United States citizens; Mr. Roberts authorized to say that such a measure would be desirable to the United States.	
		1888.		
134	Mr. Roberts to Mr. Bayard (No. 171).	Jan. 6	Claims of France against Chili: Incloses translation of protocol for the settlement of French claims upon Chili.	181
135	Mr. Siebert to Mr. Bayard (No. 180).	Feb. 15	Grace-Aranibar contract and Peruvian foreign debt: Correspondence between the Chilian minister and British representative inclosed.	182
136	Same to same (No. 181).....	Feb. 24	Claims of Italy against Chili: Protocol between Italy and Chili settling all remaining Italian claims for $297,000 approved by the Chilian Congress, and the sum paid to the Italian representative; the international tribunals at an end; Spanish and United States claims alone unsettled; protocol and decisions of the Italian-Chilian tribunal, and the message of President Balmeceda inclosed.	186
137	Mr. Roberts to Mr. Bayard (No. 184).	Mar. 22	Observations during trip through Chili: Hot baths of Colina; a haciendo; Concepcion and Talcahuana; the Bio-Bio River; Tomé; Chilian wine; woolen mill; Coronel; Lota; Señora Cousiña; Sebu; Valdivia, its inhabitants, climate, and breweries; no merchandise on the steamer from the United States, except burning fluid; the return cargo; wages of laborers; farms and farming products; quantity of meat consumed in Santiago.	190
138	Mr. Bayard to Mr. Roberts (No. 84).	Apr. 17	Quarantine of Colombian ports against Chili: The Postmaster-General does not think the United States has cause to complain of the total exclusion of mail from Chili, as a sanitary measure against cholera, by the Colombian Government, but this Department thinks the measure extreme; no answer received from the Post-Office Department to the request to have dispatches to Chili sent via England.	194
139	Mr. Roberts to Mr. Bayard (No. 192).	May 3	Religious liberty and American claims: Special session of Congress called to ratify an amendment to the constitution permitting religious liberty, but the cabinet resigned and the amendment was abandoned; it is said that the church will, in consequence, reconsecrate the cemeteries and recognize the civil marriage law; interview with President Balmeceda in regard to the claims of American citizens against Chili.	194
140	Mr. Siebert to Mr. Bayard (No. 201).	July 17	Delay in the mails: Date of receipt of dispatches 84, 85, 86; Nos. 81, 82, and 83 not received and supposed to be snowed up on the mountains; five mail-bags, containing dispatches Nos. 118 and 119, which left Santiago at the breaking out of the cholera, thrown into the sea at Acojulta, Salvador; the account given in the Diario Oficial inclosed.	196
141	Mr. Bayard to Mr. Roberts (No. 77).	May 26	Claims of Italy against Chili: Is informed by Mr. Siebert that a protocol has been signed between Italy and Chili, accepting a lump sum for Italian claims not acted upon, and that the international tribunals had ceased to exist, leaving claims of the United States and Spain unsettled; the decisions of the tribunals unsatisfactory; complaints of delay by United States citizens on the part of the Government in pressing their claims; the first question is whether it is better to have a commission decide the claims, or accept a lump sum; many claims susceptible of individual settlement, others by arbitration, others by payment of lump sum; hopes Mr. Roberts will agree with the Chilian Government upon a plan of settlement as speedily as possible.	197

CHINA.

No.	From and to whom.	Date.	Subject.	Page.
		1887.		
142	Mr. Bayard to Mr. Denby (No. 227).	Sept. 5	Lekin on kerosene: Department pleased to hear of the reduction of lekin on kerosene from $1.30 to $0.50 per case; expression of its gratification at his services in obtaining the reduction be sent to Mr. Seymour.	199
143	Mr. Denby to Mr. Bayard (No. 445).	Sept. 7	Ward claim: Its history reviewed; conclusion reached that there is not sufficient basis for a presentation of it; letter of Mr. Raynor to Mr. Burlingame, September 8, 1884, inclosed.	199
144	Same to same (No. 451)	Sept. 9	Political: The effect of railway schemes of Russia on China's policy. The trans-Uralian railway feasible; China most threatened by it. The trans-Siberian line completed to Tiumen; dependent on water communication and on Government aid. Railway can not compete with steamers on the Amoor or with caravan to Irkoutsk. A long time necessary to develop the mining interests of Siberia. The road needed for military operations of Russia. By it she may become the power on the Pacific. China must build railways to move troops and protect her frontier, one to Monkden, with branches to the Amoor and Possiet, to communicate with Corea. Not known what influence these ideas have had in the late actions of China in regard to American capitalists. The subject being discussed in newspapers. Distance from St. Petersburg to Tiumen, 1,816 miles; from Tiumen to Vladivostock, 4,796 miles, with divergences, 7,226 miles.	218
145	Same to same (No. 464).....	Sept. 29	Indemnity to American missionaries: Third installment (6,000 taels) of the indemnity fund to the American missionaries paid to British consular agent at Chung King, and placed in the Hong-Kong and Shanghai Bank at Hankow to the credit of Dr. Clews.	219
146	Mr. Bayard to Mr. Denby (Telegram).	Oct. 6	Corean diplomatic mission: The surprise and regret of the United States to be expressed to the Chinese Government at the obstructions put by Chinese officials in the way of Corea's diplomatic representation, as stipulated for by treaty.	220
147	Mr. Denby to Mr. Bayard (No. 478).	Oct. 10	Missionary troubles: Attempt of Presbyterian missionaries to re-establish their mission post at Kwai Ping, from which they were expelled in 1886. Rev. A. A. Fulton, his sister, a physician, and two children driven away by a mob, but not injured. Missiles thrown at the boat and abusive language used. Received kindly by some. Boat wrecked and robbed on the way back. Consul will present claim for damages. Violence of the mob and intemperate zeal of missionaries to be condemned. Has continuously announced that the right of permanent residence is not secured by treaty to missionaries, but that if other missionaries were allowed to locate in the interior, the right would be demanded for Americans, and redress demanded for injuries if residence was tolerated. Good accomplished by mission work. Positive law can not be overridden on that account or rashness condoned.	220
148	Same to same (No. 480).....	Oct. 11	Siberian railroad: Eleven Russian engineers arrived at Hong-Kong to survey the country from Vladivostock to Boussé on the Oussouri for the Siberian Railway. The Oussouri a tributary of the Amoor. The design to extend the road to Lake Baikal, and thence to the Ural Mountains to connect with the European system. Contract to transport materials and staff said to have been made. Great advantage will result to Vladivostock.	221
149	Mr. Bayard to Mr. Denby (No. 242).	Oct. 13	Visit of Chinese officials: Information given to the Secretary of the Treasury of the expected arrival of the two Chinese officials, so that they may be admitted without hinderance. The Department will render them what service it can.	221

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150	Mr. Denby to Mr. Bayard (No. 482).	1887. Oct. 13	Suzerainty of China over surrounding countries a difficult question, as with Corea, Tonquin, Upper Burmah, and Thibet, and on account of it China shuts out trade. The suzerainty over Upper Burmah dormant until occupation of that country by England and then used to defeat Mr. Macauley's mission to open Thibet to trade, to secure the Hong-Kong opium convention, and the abandonment of Port Hamilton by Great Britain. Perpetuated her claim by obtaining a pledge that the decennial missions from Mandalay to Peking should continue. Corea granted a remission of contribution for the coming year because of poverty and from good-will. List of countries claimed as dependent states by China. Letter and presents sent by the King of Nepaul to the Emperor of China, who claims authority over Nepaul. The claim in regard to Nepaul and other British possessions received by them with distrust, and serious complications feared. Communication received from Mr. Dinsmore relative to Chinese opposition to the Corean mission to the United States. Corea admits its vassalage. China can not prohibit sending ministers after allowing the treaties to be made.	222
151	Same to same (No. 496).....	Oct. 26	Yellow River overflow: The Yellow River has burst its banks. Particulars not received, but great devastation feared. A decree appropriating 400,000 taels and all the tribute grain sent by the Grand Canal from Kiang Sü to aid the sufferers indicative of the magnitude of the calamity. A subprefect, major, lieutenant, and second sergeant degraded and punished for not taking precautions to repair the banks of the river, and the intendant at the capital of Hoonan to be handed over to the board for punishment.	223
152	Same to same (No. 500).....	Oct. 27	Obstruction of navigation near Canton: The appointment of a higher officer to attend to commerce at Whampoa desirable, but the right of claim to obstruct the navigation in time of peace not admissible. Correspondence with the Yamên on the subject inclosed.	224
153	Mr. Bayard to Mr. Denby (No. 247).	Nov. 4	Corean foreign mission: The essential thing in regard to Corea's foreign mission and China's claim of sovereignty over that country is to fix the responsibility for the execution of treaty stipulation. Not material if the act be obligatory or permissive if done in pursuance of treaty compact. Reciprocal sending of consular and diplomatic officers provided for by Corean treaty with the United States. This a sovereign act and resulted from China's disclaiming responsibility for Corea's acts towards foreigners. China seems now to claim this responsibility and the right to permit or refuse to let Corea have diplomatic relations. If the treaties can not be executed without China's permission, they can not be violated without her responsibility. This instruction to the end that China's position may be ascertained. No admission to be made of claim of control, without responsibility, over Corea.	225
154	Same to same (No. 248).....	Nov. 7	Ward claim: Dispatch No. 445, being a review of the Ward claim against China, received and approved.	227
155	Mr. Denby to Mr. Bayard (No. 509).	Nov. 11	Monetary system of China suitable to the people: Mexican dollars or taels used; the tael equals $1.40, Mexican; value of silver varies daily; no mint; the copper "chien" or "cash" and lump silver ordinary money; division of silver coins by weight; weight and value of cash; poverty of people requires small coin; "cash" exchanged for silver for distant payments; value of the tael; composition of the cash; equilibrium of moneys preserved; depreciation of silver a serious evil; interest laws date from 1250 A. D.; rate of interest; silver cast in lumps of 10 and 50 taels, .95 pure; gold in bars of 10 taels; no national bank; paper money issued	227

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155	Mr. Denby to Mr. Bayard (No. 509)—Continued.	1887. Nov. 11	from earliest antiquity, but stopped in 1455; a private bank in each province which receives taxes for the Government; banks of emission in Peking; not in favor with the Government; banks of deposit; discount necessary and popular; their functions, etc.; interest at Peking 12 per cent.; money brought from the interior in hollow logs; desire of coinage and a national bank among foreigners, but great rivalry among nationalities on the subject; many failures; want of confidence in Government officials; schemes to form a bank in which leading men in all commercial countries will be stockholders; not permissible by Chinese policy; the American bank system would succeed; needed by the Government; a great opportunity for a man of reputation and ability; the legation will use its personal influence to assist the undertaking.	
156	Same to same (No. 514).....	Nov. 22	Yellow River overflow: Loss of life and property, etc.; the methods of raising revenue for repairing the banks proposed by the board of revenue, inclosed.	232
157	Mr. Bayard to Mr. Denby (No. 263).	Dec. 3	Missionary troubles at Kwai Ping: Approves views in regard to mob violence against missionaries at Kwai Ping.	236
158	Mr. Denby to Mr. Bayard (No. 521).	Dec. 9	Corean mission: The King of Corea acknowledges his vassalage in a memorial to the Emperor of China, requesting permission to send envoys abroad; Vattel has nothing applicable to the relation of the two countries; assumes that the United States considers Corea an independent state; the question of expediency and possible relations of Corea with Russia, etc., to be considered; the memorial of the King of Corea inclosed.	236
159	Same to same (No. 529).....	Dec. 20	Missionary troubles at Chi Nan Fu: Communication to the Tsung-li Yamên in regard to the missionary troubles at Chi Nan Fu; the Presbyterian missionaries claimed that they had been promised a perpetual lease of land; the records showed they had not; a perpetual lease obtained which the officials refused to confirm; possession taken by Mr. Reid for the mission of the premises; the treaty of 1858 requires that legal fees shall be paid, and confines renting to treaty ports; Mr. Reid ejected and injured by a mob; claims damages; endeavor to obtain for him another piece of land; the missionaries' acts against the law; they claim under the French and English treaties the right to lease or buy land anywhere in China; the Department has not given its views on the right of missionaries in the interior of China; suggests this be done in an instruction as a guide to the legation; Americans have built and rented in the interior, while the treaty only gives the right in open ports; what protection is to be given them? they are informed that the legation does not construe the treaty to give rights in the interior, but that where they have effected lodgment with the consent of the authorities they will be protected against subsequent wrongs; this the *rationale* of the Chung King case; submits the question to the Department; communication to the Tsung-li Yamên inclosed.	238
160	Same to same (No. 531).....	Dec. 26	Civil service in China: By the Chinese system of competitive examinations there are three grades; examinations for the first are held in the chief city of each district; for the second in the provincial capitals; for the third at Peking; the successful students treated with great honor; 2,000,000 attempt the first examination; 2 per cent. pass; these are eligible for the second, and the successful again for the third, where those who pass are given offices; a fourth examination is necessary to become a member of the Hanlin College, and from its members one is selected by competition who is the model scholar of the empire; no limit of age to applicants; the system creates a governmental class; the examination does not test the business ca-	241

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160	Mr. Denby to Mr, Bayard (No. 531)—Continued.	1887. Dec. 26	pacity of the applicant, but is purely literary, and he becomes one of the *literati*, who oppose as a class foreign innovations; arguments in its favor; it opens a road to the ambitious, is a counterpoise to the power of an absolute monarch, and provides an educated gentry bound to support the existing order; these reasons not needed in western countries; comparison between civil-service reform in the United States and the system of China; the United States civil service tests the capacity of an applicant for a particular office; Chinese system has the same general literary examination for all offices, whether special knowledge be needed or not; the sciences introduced into their curriculum.	
161	Same to same (No. 533).....	Dec. 28	Missionary troubles at Chi Nan Fu: The reply of the Yamên to a note on the subject, stating that instructions had been given to the Shantung authorities to investigate the missionary troubles, inclosed.	243
162	Same to same (No. 539).....	1888. Jan. 7	Opium traffic and Chinese treaties: Have sent to consuls a new circular on the opium traffic; can not procure a copy of "Treaties between the Empire of China and foreign powers, together with regulations for the conduct of trade, etc., etc.;" the customs said to be preparing a book of all treaties, which will send the Department.	244
163	Same to same (No. 541).....	Jan. 10	Chinese coolies for Panama Canal: The agent of the Panama Canal Company refused permission by the Chinese Government to ship coolies to work on the Panama Canal; the Tsung-li Yamên has not answered the French minister on the subject; coolies being shipped from French territory in Tongking, thus evading the necessity of permission of the Chinese Government.	245
164	Same to same (No. 545).....	Jan. 12	Bonded warehouses: The Shanghai General Chamber of Commerce has requested the intervention of the diplomatic corps in regard to bonded warehouses; the chamber of commerce resolved that any plan which does not allow the bonding of all wharves and warehouses is against public policy and an interference with trade, and requested the ministers to induce the Government to rescind its edict designating the China Merchant Navigation Company's warehouses as the sole bonded warehouses; the ministers have refused, with the promise to bring the matter before the Chinese Government should general commerce require it.	245
165	Same to same (No. 548).....	Jan. 17	Bonded warehouses: Provisional regulations for the bonding of goods, published by the Chinese maritime customs, inclosed.	246
166	Same to same (No 551).....	Jan. 21	Corean foreign mission: The King of Corea writes to the viceroy of China that he will recall his envoys as soon as they have offered congratulations, and leave chargés d'affaires in their places, and that they have been instructed to show greatest respect to the Chinese minister; recites the imperial decree laying down subordinate position of Corea and consequent duties, assuring the viceroy they will be observed; translation of the letter inclosed.	248
167	Same to same (No. 553).....	Jan. 26	Obstruction to navigation near Canton: Copy of communication to the Yamên on the subject of obstruction in the Canton River inclosed.	250
168	Same to same (No. 554).....	Jan. 26	Drawbacks: The former rule that drawbacks could be cashed or tendered for duties canceled because injurious to customs revenues; shippers now compelled to insure the drawback. Loss on hides in 1886, 1,700 taels. Serious effort will be made by the minister to restore the former rule. Communication to the Yamên on drawback certificates on the Yangtze inclosed.	251
169	Same to same (No. 555).....	Jan. 26	Camphor monopoly in Formosa: Copy of communication to the Yamên relating to the camphor monopoly in Formosa inclosed.	252

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170	Mr. Denby to Mr. Bayard (No. 556).	Jan. 26	Rights of foreigners and taxation of foreign goods in China: The ministerial body indebted to the dean of the diplomatic corps for his statement of the rights of foreigners and taxation on foreign goods in China. These subjects presented before by Sir John Walsham, Mr. Von Brandt, and Mr. Denby, but this the first concerted action by the ministers, and favorable results are expected. Communication to the foreign office on lekin in Taiwan fu inclosed.	254
171	Mr. Bayard to Mr. Denby (No. 285).	Feb. 9	Corean foreign mission: The Department's consideration attracted by Mr. Denby's comments upon the letter published in a Chinese newspaper from the King of Corea to the Emperor of China, asking permission to send ministers to foreign countries; not necessary to pursue the question of the relation of the two countries unless called upon to do so by an actual case. Notice of the reception of the Corean minister on an equal footing with other ministers previously sent. The claim of China never definitely stated. Translation of a letter sent by the King of Corea to the President of the United States asserting a certain dependence upon China, but domestic and diplomatic independence. This the only official statement received in the matter. Admiral Shufeldt reports that the treaty was agreed to without any political consideration and only on the promise that he would deliver the King's letter to the President. The United States merely require observance of treaty obligations, and it is not advisable to pursue the subject of the relations between China and Corea further than is necessary for this. Protection to American citizens and commerce sought, not political interest.	255
172	Mr. Denby to Mr. Bayard (No. 567).	Feb. 9	Missionaries in China: Statistics of Protestant missionaries, communicants, revenues, etc.	257
173	Same to same (No. 569).....	Feb. 13	Rendition of fugitives from justice: A proclamation on the rendition of fugitives from justice issued by the four high provincial authorities of Kung Tung, occasioned probably by the arrest at the Chinese town near Hong-Kong of a member of the Triad Society. The man started to British Kowloon in a boat. The boat went to the Chinese town, the man jumped overboard, was captured, and executed. No complicity of the boat's managers was shown, and no international law violated by the seizure. The proclamation is issued to guard against similar occurrences. Copy inclosed.	258
174	Same to same (No. 572).....	Feb. 15	Lekin in Formosa: The yamen defends the lekin on goods bought at a treaty port in Formosa, for export, on the ground that the foreign merchants failed to take out transit and so should pay lekin. Foreign ministers claim that lekin should be collected in the interior. Reply of the Yamên inclosed.	259
175	Same to same (No. 574).....	Feb. 20	Diplomatic etiquette: Unpleasant correspondence on the subject of New Year's calls. Final agreement that the prince and ministers send cards to the foreign ministers and their secretaries. The question of interpreters waived. Information as to diplomatic etiquette in Washington requested,	260
176	Same to same (No. 577).....	Feb. 21	Camphor monopoly in Formosa: The reply of the yamen to his communication in regard to the Formosa camphor monopoly evasive and irresponsive. It states that foreign merchants may buy camphor near the sea-shore, and that the Government control is only in the disturbed districts, while the proclamation made the trade in all the island a monopoly. The subject important as being an attempt of the ministers to compel the Imperial Government to force the viceroys to comply with treaty stipulations. The Yamên's reply inclosed.	262

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177	Mr. Denby to Mr. Bayard (No. 578).	Feb. 24	Slavery in China: Original slaves, first, felons; second, prisoners of war; third, poor who sought protection of the rich. Slaves treated with kindness; not numerous; prices of children; small number of slaves due to the competitive examination system and the patriarchal customs; law in respect to slaves; servitude in the mines for debt. Selling children during the famine.	263
178	Mr. Bayard to Mr. Denby (No. 292).	Mar. 6	Bonded warehouses: Well to watch the experiment of the bonded warehouse system and if successful to press for its extension. The Yamên should be notified that the United States does not waive objection to any monopoly which may restrict commerce at free ports.	265
179	Mr. Denby to Mr. Bayard (No. 585).	Mar. 7	Smuggling of fire-arms: Notice of the legation called by the foreign office to the smuggling of fire-arms by sailors at New Chwang; said to have been carried on for a long time and the arms sold to outlaws in the Eastern Manchurian provinces. Chinese Government suggests that the guilty sailors be sent to their own countries and forbidden to come again on the Chinese coast. Has promised to co-operate in suppressing the smuggling and has instructed the consuls to that effect. Does not anticipate any complaint against American sailors.	265
180	Mr. Bayard to Mr. Denby (No. 293).	Mar. 7	Missionary troubles: Views in regard to missionary troubles at Chinan fu and elsewhere approved; Americans have not an unlimited right to buy or lease property in the interor of China and should be so told, but if they do so by permission they are to be protected. Necessary that the restricted limits allowed foreigners be extended, and where this is done by permission of local authorities, it is implied that they have assumed protection over foreign residents.	266
181	Mr. Denby to Mr. Bayard (No. 586).	Mar. 10	Exclusion of kerosene oil from China: Memorial of the Viceroy of the two Kuangs and governor of Canton praying the prohibition of the importation of kerosene, stating that he put an excessive lekin on kerosene to diminish its importation; malice against the United States evident; injuries done by kerosene said to be greater than those done by opium; attempt to show by treaty of 1881 that kerosene may be excluded. Ignorance displayed in the memorial; mistaken impression that a treaty with the United States will exclude kerosene; opium business not affected by prohibition on United States citizens; United States citizens not largely engaged in importation of kerosene, but Chinese, Germans, and Englishmen; kerosene comes from Batoum; does not intend to bring the memorial before the Yamên, as does not think notice will be taken of it; will discuss this and other subjects with the Viceroy in the spring; the memorial inclosed.	266
182	Same to same (No. 590)	Mar. 7	Summer palace of the Emperor: The custom of the Chinese Emperors to spend the summer at their palace near Peking, which was destroyed by Lord Elgin. The palaces and grounds restored, and the court to spend the summer there.	268
183	Same to same (No. 591).....	Mar. 19	Drawbacks: The Tsung-li-Yamên has agreed to relieve the foreigners from drawbacks; extra charges to be made not determined.	269
184	Same to same (No. 592).....	Mar. 19	Camphor monopoly in Formosa: The Tsung-li-Yamên desires further time and information before coming to a final determination in regard to the Formosa camphor monopoly; until then the rules adopted in 1869 remain in force.	269
185	Same to same (No. 593)	Mar. 19	Lekin on property of foreigners: The Yamên has agreed to instruct the governor of Formosa to cease the imposition of lekin on native produce, the property of foreigners, while in any free port or in transit from a free port to a port of shipment.	270

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187	Same to same (No. 595)	Mar. 19	Land tenure of foreigners in China: The right to acquire land in the interior of China not given by treaties to foreigners; its acquisition frequently permitted; instance of Peking; the Imperial Government leaves the question of residence of foreigners to the local authorities and people; residence being permitted, they have a right to protection; claim that rights of Americans are enlarged by custom and grants to other nations under the favored-nation clause; Americans lawfully residing in the interior to be assisted by minister and consuls in obtaining land for business purposes; residence and business facilities to be acquired by individual effort; the Government will protect person; copy of communication to the treasurer of the Central China Mission on land tenure in China as affecting foreigners, inclosed.	270
188	Same to same (No. 600).....	Mar. 21	Bonding of kerosene: Letter to one of the managers of the Pooting Wharf & Go-down Co., as explanatory of the action of the legation touching the bonding of kerosene in China, inclosed.	274
189	Mr. Bayard to Mr. Denby (No. 299).	Mar. 22	Kerosene: Dispatch from United States consul at Canton, covering a memorial to the Imperial Government of China from the Viceroy of the two Kuangs upon the loss of life from kerosene oil, and asking that its importation be forbidden, and a letter from J. H. Flagg, representing large petroleum interests in the country, inclosed.	275
190	Mr. Denby to Mr. Bayard (No. 602).	Mar. 27	Drawbacks: The Yamên proposes that after July 1, 1888, drawback certificates will be received in payment of all kind of duties at the custom-house where issued; this not to apply to outstanding drawbacks; drawbacks at present only receivable for coastwise duties; their value greatly increased; would have preferred that bond to export these goods in one year should have been exacted instead of the drawback system; thinks foreign ministers and merchants will accede to the proposition. Communication from the Yamên to Mr. Denby, March 25, 1888, on drawbacks, inclosed.	278
191	Same to same (No. 603)	Mar. 27	Gold mines: Memorial of the Tsung-li-Yamên and the boards of revenue and civil officer, reporting favorably on a memorial of Li Hung Chang for developing the gold mines near the Amur river, showing the protection to the frontier the population drawn there would be; six of the sixteen plans for developing the mines proposed by Li Hung Chang: First, formation of a joint stock company; second, engagement of competent mining engineers; third, constructing steamers to navigate the Amur; fourth, purchase of mining machinery; fifth, refugees to be allowed to return to work in the mines; sixth, road, etc., from Tsitsihar to Moho to be built by soldiers; net profits to be divided, 30 per cent. to support soldiers, 20 per cent. to workmen, and 50 per cent. to shareholders; possibility of not finding purchasers for the stock of the company and previous ill-success of companies managed by the official class; the memorial inclosed.	279
192	Same to same (No. 604).....	Mar. 28	Chinese mint anticipated: Want of uniformity in size and value of coins; conservatism and fear of the people prevent a remedy; proposition to issue "standard cash" by the Government on payment of salaries in order to produce uniformity between the Pekin and the provincial cash resulted in the depreciation in value of the Pekin cash from 10 to 2½ standard cash, and disturbance of money values in	283

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192	Mr. Denby to Mr. Bayard (No. 604)—Continued.	Mar. 28	Peking, owing to the report that the Pekin cash would be withdrawn; a decree, stating that the Pekin cash will not be withdrawn, inclosed.	
193	Same to same (No. 605)	Mar. 28	Decree of the Emperor in regard to the future residences of the dowager Empress intended to quiet the popular mind which has grown restless under recent expenditures, inclosed.	284
194	Same to same (No. 606)	Mar. 29	Earthquake in the province of Yunnan on the 14th and 15th of January last: Houses destroyed and over four thousand people killed and injured; much destitution; provision made by the Emperor and Viceroy for aiding those in need.	285
195	Same to same (No. 607)	Mar. 31	Internal taxes on imported goods: Instructed to protest against the levying of enormous internal taxes on imported goods in China, on the ground that such taxation is prohibitory of importation of goods, admitted by treaty; interpretation of treaties shall be favorable; importation by foreigners placed by treaty on the same footing as importations by Chinese; goods not taxed while in foreign hands, but in the hands of Chinese, subjected to special duties; not levied on native produce; claim that China can tax her own citizens erroneous; the tax will make importation unprofitable, whether levied on foreign or native merchants; tax can be resisted; the true principle is that there should be no discrimination against imported goods, else foreign trade can be annihilated; these considerations may become important if Chang Chi-tung continues his policy towards kerosene; will see Chang Chi-tung in Canton.	286
196	Mr. Denby to Mr. Bayard (No. 617).	Apr. 5	Annual visit of the Emperor to the temple of heaven; the Emperor worships for all the gods; no idols in the temple; Shangti the supreme ruler, who is conceived of as imperceptible to the senses; the temple, situated in the Chinese city, is a single tower with blue tiles; a bullock sacrificed once a year on a marble altar without the building; notices of all ceremonials in which the Emperor takes part sent to foreign ministers, with the request that none of their countrymen appear on the streets to be traversed; Chinese equally excluded, and ministers make no objection to the request.	287
197	Same to same (No. 618)	Apr. 7	Audience with the Emperor again agitated by foreign ministers; report that the Emperor will assume sole rule the 20th proximo; this considered a good time to make the demand; some think if it is refused that Chinese ministers in foreign countries should be refused audiences; does not ask that this be done at Washington; in favor of making the demand; thinks it may be refused until the Emperor's marriage.	291
198	Mr. Bayard to Mr. Denby (No. 304).	Apr. 10	Chinese for Panama Canal: No Chinese carried in French Government transport from China or Tonking to Panama; Mr. Anderson's No. 369 to the Department inclosed.	291
199	Mr. Denby to Mr. Bayard (No. 621).	Apr. 13	Missionary troubles at Chi-Nan Fu: Account of the affair; Mr. Reid's money returned and permission given to obtain a house elsewhere; instructions requested; note of the Yamên and Mr. Denby's reply inclosed.	292
200	Same to same (No. 628)	Apr. 17	Smuggling of fire-arms: United States vice-consul at New Chwang informed that there is no law to punish Americans who smuggle fire-arms and contraband of war into China, except the opium statute, and confiscation the only penalty, that the smuggler might be induced to leave the country; Chinaman, engaged on an American ship, caught smuggling on shore should be left to native authorities; attempted arrest on board ship a different case, and should be reported to the legation.	296

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201	Mr. Bayard to M. Denby (No. 307).	Apr. 23	Diplomatic etiquette: The precedence in the diplomatic list of Chinese secretaries over translators and attachés follows the list given by that legation; translators and secretaries treated alike; the minister presents whom he pleases to the President New Year; in calls on cabinet officers the minister is usually attended by one or both translators, and their cards are returned as the secretaries'; regrets these questions should interrupt pleasant relations.	296
202	Same to same (No. 308)	Apr. 25	Smuggling of fire-arms, etc.: Approves action in promising the aid of the United States legation to the Chinese Government in preventing smuggling by Americans.	297
203	Mr. Denby to Mr. Bayard (No. 633).	Apr. 27	Lekin in Formosa: The Yamên insists upon collecting lekin in Formosa between Taiwanfu and Auping; this construction of treaties not to be submitted to; Taiwanfu the treaty port, but ships can only get to Auping, 3 miles from Taiwanfu, and taxes on goods passing between the two places would make Taiwanfu no longer a treaty port; the right of China to levy lekin conceded, but it is denied in a free port, or on goods in transit from a free port to point of shipment, else China could tax goods between Shanghai and Woosing, Canton and Whampoa, etc.; difficulty of collecting lekin elsewhere no argument; goods should not be taxed after being bought by foreign merchant in Taiwanfu; note sent by the foreign ministers to the Yamên, stating that consul had been instructed to protest against the collection, and that reclamations will be made; will report after visit to Formosa; two communications on the subject from the foreign ministers to the Yamên of April 28 inclosed.	297
204	Same to same (No. 634)	Apr. 27	Camphor monopoly in Formosa: The Yamên repudiates the interpretation put by the foreign ministers upon the agreement in regard to the camphor monopoly and maintains the monoply; the ministers insist that the rules adopted in 1869 in regard to the camphor trade are in the nature of an agreement, and are still in force. They have informed the Yamên that consuls are instructed to claim compensation for all violations of them.	300
205	Same to same (No. 639)	May 5	Diplomatic etiquette: The question of official etiquette satisfactorily settled. Proposition of the Tsung-li Yamên on the subject inclosed.	300
206	Mr. Bayard to Mr. Denby (No. 315).	May 9	Land tenure in China: Dispatch No. 595, containing a thorough discussion of land tenure, will be of great assistance to the Department in its future considerations of this important subject.	301
207	Mr. Denby to Mr. Bayard (No. 640).	May 11	Imperial naval college established at Tientsin, in 1881, for the purpose of educating Chinese for the navy. College has two departments—executive and engineering—of sixty students each; the executive department under Mr. Yen Fung Kwang, a graduate of the Royal College at Greenwich, England, the engineering department under two English professors of that college; curriculum; students selected by competitive examination; a torpedo department added; high standard of examinations; need of a preparatory school; the college maintained at Government expense; proclamation inviting competition at the entrance; examinations inclosed.	301
208	Same to same (No. 644)	May 21	The *San Pablo*: Mr. Wingate, United States consul at Foochow, reports that upon application to Mr. Chang, a Taotai at Foochow, a gun-boat was sent to the wreck of the steamer *San Pablo*, near Haitan Island; the local authorities did not protect the property from looters, and a claim will be presented; what was saved sold at public auction for $400.	303

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No.	From and to whom.	Date.	Subject.	Page.
		1888.		
209	Mr. Denby to Mr. Bayard (No. 646).	May 26	Exclusion of Chinese from Australia: Chinese refused permission to land at Melbourne; Chinese press indignant, and claims no notice was given, and the loss will be heavy; telegram from the governor of Victoria to the governor of Hong-Kong, giving law and reason for exclusion of Chinese, that they fraudulently transferred papers; anti-Chinese feeling in Australia; telegram taken from an Australian paper indicative of this sentiment; report that Chinese in Australia request that diplomatic action be taken by the viceroy at Canton not authenticated; letters from the Hong-Kong chamber of commerce to the Hong-Kong Government and to the committee of the chamber of commerce by Chinese merchants of Australia in relation to refusal of permission to Chinese to land in that colony inclosed.	304
210	Same to same (No. 647)	June 1	Imports and exports: Customs Gazette sent under different cover; collections at free ports, $5,219,602 in 1883, $3,728,247 in 1887; showing not discouraging to American products; decrease in importation of kerosene at Shanghai; other importations increased; increase of importation of American goods into Corea.	306
211	Mr. Bayard to Mr. Denby (No. 324).	June 6	Audience of foreign ministers with the Emperor; the United States not to be committed to any course of action in case audience is refused; difference of ceremonial, etc.; position of the minister under the treaties.	307
212	Same to same (No. 325)	June 6	Missionary troubles at Chinanfu: Approved action and decision of Mr. Denby in regard to the Chinanfu missionary troubles; will not fetter him by instructions; would seem wiser to accept another piece of land, if obtainable, and for Mr. Reid to waive claim for damages; hopes that missionaries may acquire rights by custom, but local and religious prejudices should be borne in mind, and that arrangements will be made which will avoid leading Chinese to insist on treaty stipulations; experience shows that the rights of foreigners will be extended beyond treaty ports if good will and conciliatory disposition be manifested.	309
213	Same to same (No. 327).....	June 7	Smuggling of fire-arms, etc.: Confiscation by China of smuggled goods the only penalty for smuggling.	310
214	Same to same (No. 328).....	June 7	Exclusion of Chinese from the United States: Treaty with China submitted to the Senate, and sent to Mr. Denby with the President's messages to the Senate; confirmed by the Senate May 7, with two amendments; Chinese minister accepts the amendments; treaty with amendments transmitted to China for the imperial assent; the Chinese minister gone to Peru for several months, being accredited as minister to that country; consequently legislation delayed until next session of Congress; the treaty may be received, and ratifications exchanged, and the President proclaim its adoption in interim; copy of amended treaty and correspondence inclosed.	310
215	Same to same (No. 329)	June 15	Diplomatic etiquette: Satisfaction at the settlement of the question of diplomatic etiquette at Peking on Near Year's day.	313
216	Mr. Denby to Mr. Bayard (No. 651).	June 25	Treaty between Portugal and China and convention appended thereto; translation inclosed.	313
217	Same to same (No. 659)	July 9	Status of Chinese women married to foreigners: The wife becomes of the nationality of the husband by the agreement between the German minister and the Yamên, when a German marries a Chinese woman; this, by statute, can not be the case when an American marries one, as sometimes happens; intermarriages with other nationalities common; perplexing position of a Chinese woman married to an American; the rule of international law making the wife subject to the jurisdiction to which the husband belongs is better than the United States statutes on the subject, though not in favor of naturalizing Chinese; agreement between the	319

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No.	From and to whom.	Date.	Subject.	Page.
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217	Mr. Denby to Mr. Bayard (No. 659)—Continued.	July 9	German minister and Chinese Government as to status of Chinese women married to Germans inclosed.	
218	Same to same (No. 660).....	July 9	Mines: Two American engineers, Mr. Ellsworth and Mr. Church, employed at Chinese mines; the mine superintended by Mr. Church reported to promise well; two mines of argentiferous lead worked by foreign machinery; worked by natives for forty years, but stopped by water; Mr. Church, superintendent, Mr. Dawes, assayer, engineer, and two miners, all Americans, the foreign staff; 200 native miners, guarded by soldiers from robbers; shafts sunk to get at the water, but good ore discovered and better expected; 30,000 taels' worth of American machinery at the mines; the viceroy furnished the money for machinery and working to obtain lead; taking out ore expected to begin in two months; a joint-stock company to be formed by the viceroy.	321
219	Same to same (No. 667)	July 14	Statistics of foreign trade.....	322
220	Mr. Bayard to Mr. Denby (No. 333).	July 17	Rights of missionaries in China: Rev. Gilbert Reid on the rights of American missionaries in China; he was informed that measures for their protection had been taken; Mr. Reid's letter and the reply thereto inclosed.	325
221	Mr. Denby to Mr. Bayard (No. 670).	July 20	Tour of inspection through China; Kelung, Formosa; coal mines at Kelung; Formosan railroads; From Kelung to Twatutia; Taipeifu; Twatutia; interviews with the governor of Formosa; sulphur springs; trade of Tamsui in 1887; telegraph lines; general observations; the lekin question; map of northern Formosa; Macao; Canton; Foochow; Shanghai; the case of Arlington; necessity of legislation for punishment of crimes committed by Americans in China, Corea, etc.; Tien-Tsin; concluding observations.	326
222	Same to same (No. 671).....	July 20	Railroads: Negotiations pending for the extension of the Chinese Railroad to Tung-Chow; the line to Tien-Tsin nearly completed; the company anxious to extend operations to the capital; rumored opposition to the negotiation not credited; the line surveyed and only awaiting authority for work to begin.	339
223	Same to same (No. 672).....	July 20	Mines: Mining interests beginning to be appreciated; frequent memorials for permission to open new mines; memorial from the director of mines in Yunnan stating discovery of copper and lead mines, which were opened by a mercantile company and natives; native methods to be tried at first; comfort of miners provided for; foreign machinery necessary.	339
224	Mr. Bayard to Mr. Denby (No. 338).	July 25	Exclusion of Chinese from Australia: Dispatch on the subject interesting as showing that the problem of their competition with domestic labor affects other countries as well as the United States.	340
225	Mr. Denby to Mr. Bayard (No. 678).	July 30	Edict of the Empress in relation to her retirement after the marriage of the Emperor in February next inclosed.	340
226	Same to same (No. 681).....	Aug. 3	Exclusion of Chinese: Treaty with China approved; the answer to the question why Americans were not admitted to the interior of China by it, that it would be impossible to enforce the laws; exclusion of the commercial houses from the interior by the Portuguese-Chinese treaty of 1887; Australia's action antagonistic to Chinese immigration commented upon in connection with the American treaty; the Chinese Government favors emigration of Chinese to Australia; disapproves of it to the United States.	341
227	Same to same (No. 682).....	Aug. 7	Salvage in the province of Shantung: Memorial of the governor of Shantung concerning regulations for salvage on the Shantung coast inclosed.	342
228	Mr. Denby to Mr. Bayard (No. 685).	Aug. 12	Laws of China: Translation of the Chinese law in reference to descent, wills, probate courts, ownership of lands, conveyances, marriages, majority, naturalization, courts of justice; the laws given apply only to Chinese; foreigners are tried before the consuls of their country by the laws of their native land.	346

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No.	From and to whom.	Date.	Subject.	Page.
		1888.		
229	Mr. Denby to Mr. Bayard (No. 686).	Aug. 16	Assumption of government by the Emperor: The Imperial Board of Astronomy reports that March 4, 1889, is an auspicious day for the assumption of Government by the Emperor, and that day has been fixed for the ceremony by Imperial decree.	347
230	Mr. Bayard to Mr. Denby (No. 343).	Aug. 18	Marriages between Chinese and foreigners: Copy of note to German minister at Washington in regard to the validity of marriages in China between subjects of that empire and foreigners, inclosed.	347
231	Mr. Denby to Mr. Bayard (No. 690).	Aug. 22	Yellow River overflow: The new embankment on the Yellow River swept away; nearly every one connected with its building disgraced; The accident due to the ignorance of Chinese engineers; embankment of mud and millet stalks; breach made 60 feet deep and impossible to close by the former methods; foreign engineers say that owing to silt in the river its bed will be continually rising and there will always be danger of its breaking its banks; it is proposed to make make lakes and canals for the surplus; but no survey has been made; the province of Konan ruined; Anhin nearly submerged: fear that the waters of the Yellow River flowing intor the Yangtze may fill its channel; numerous plans offered for controlling it.	348
232	Same to same (No. 691)	Aug. 24	Missionary troubles: The Chinan-fu troubles in process of settlement; they have been topics for newspapers for a year; glad that his judgment is vindicated and that Americans will get their reasonable desires; letter of the Rev. Gilbert Reid inclosed.	349
233	Mr. Bayard to Mr. Denby (No. 346).	Aug. 27	Marriages between Chinese and foreigners: Has received dispatch on the subject of status of Chinese women married to foreigners, and copy of the agreement of the Tsung-li Yamên and Mr. Von Brandt that Chinese women married to Germans shall be subject to German jurisdiction; this explains the inquiry of the German minister at this Department; instructions given in No. 343; the German agreement not conflicting, and will probably assist in determining the status of Chinese women married to Americans. No special agreement with China necessary.	349
234	Mr. Denby to Mr. Bayard (telegram).	Sept. 5	Exclusion of Chinese: Treaty believed to be rejected; positive information demanded, none received.	350
235	Same to same (telegram) ...	Sept. 6	Exclusion of Chinese: The treaty postponed for further deliberation.	350
236	Same to same (No. 701).....	Sept. 17	Exclusion of Chinese: Interview with five ministers of the Yamên, who inquire if an exclusion bill has been passed by Congress; the action of China in allowing the rejection of the treaty to be reported complained of; its rejection denied; the insertion of new clauses asked, but their substance not specified.	350
237	Same to same (No. 703).....	Sept. 20	Exclusion of Chinese: The passage by both houses of Congress of an exclusion bill communicated to the Chinese Government with a request that its action in regard to the treaty be communicated in forty-eight hours; nothing further said in relation to new clauses in the treaty; copy of the above note inclosed.	352
238	Same to same (No. 704).....	Sept. 21	Exclusion of Chinese: The Chinese Government refuses to ratify the treaty unless discussion be allowed with a view to shortening the period of exclusion, unless the Chinese consul be empowered to grant certificates to those allowed by treaty to return, and further discussion be had as to the cases of those having less than $1,000 in property in the United States; the Yamên's propositions and correspondence with Mr. Denby on the subject inclosed.	354
239	Mr. Rives to Mr. Denby (No. 357).	Oct. 10	Exclusion of Chinese: Copies of the Chinese exclusion act, the President's message on the subject, Senate Ex. Doc. O, Fiftieth Congress, and Senate Ex. Doc. No. 272, Fiftieth Congress, inclosed.	356

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No.	From and to whom.	Date.	Subject.	Page.
		1887.		
240	Mr. Bayard to Mr. Chang Yen Hoon.	Jan. 12	Exclusion of Chinese: The expediency of concluding a treaty excluding Chinese laborers from the United States for a term of years already informally discussed. Advices from China lead to the belief that it will meet the approval of the Chinese Government; the proposed prohibition applies to laborers only; the exempted classes comprise nearly all classes of Americans who resort to China, and the Chinese in America will not be restricted as are Americans in China; *projet* of a convention inclosed.	360
241	The Tsung-li Yamên to Mr. Denby.	Jan. 12	Exclusion of Chinese: A note was addressed Mr. Denby regarding the outrages against Chinese in the United States; reply received that the United States Government was endeavoring to protect them; Chinese laborers in the United States entitled to go and come at pleasure, and receive return certificates by treaty; outrages committed recently and no redress; no protection afforded Chinese in the United States; China faithful to treaty; China proposes that laborers who have never been to, or have returned from, and have no property or family there, shall not be permitted to go to the United States; those laborers in the United States and the classes entitled to go and come at pleasure to be treated according to treaty; details to be decided upon with the aid of the Chinese minister in Washington; Chinese merchants coming to the United States must have certificates; mode of obtaining it; Chinese to be allowed to pass through United States *in transitu;* will request British minister at Peking to co-operate in the prohibition of emigration.	362
242	Mr. Chang Yen Hoon to Mr. Bayard.	Jan. 15	Exclusion of Chinese: Awaits settlement of pending cases to communicate several propositions as to proposed treaty prohibiting Chinese immigration; in an embarrassing position, owing to repeated assurances that the indemnity cases would be settled in a certain time; treaty premature; will have personal interviews.	363
243	Same to same.....	Feb. 25	Outrages on Chinese at Juneau: One hundred Chinese driven by force from Juneau, Alaska; allusion of the President to it; information of amount of loss not yet received; incloses petition of some of the sufferers; will communicate further particulars; requests the wrongdoers be brought to justice; account published in the Chicago Tribune, and the petition referred to inclosed.	363
244	Same to same.....	Mar. 18	Exclusion of Chinese: Chinese entitled to protection in the United States by article 3 of treaty of 1880; Chinese murdered and robbed in the United States; indemnity bill passed, but guilty parties unpunished; China proposes to prevent laborers emigrating to the United States; three propositions, first, no laborer who has never been shall go to the United States; second, those laborers who have returned to China, and have no property or family in the United States, shall not go back; third, the Chinese in the United States are to be protected; details to be discussed and decided upon by the minister here with Mr. Bayard; British Government asked that the governor of Hong-Kong assist in carrying out the prohibition; fifteen propositions of the Chinese Government for the restriction of emigration, protection of Chinese in the United States, payment of indemnity for past outrages, and the reduction of the duty on rice; translation of the communication from the foreign office to the British minister at Pekin inclosed.	366
245	Mr. Bayard to Mr. Chang Yen Hoon.	Apr. 11	Exclusion of Chinese: Draught of convention for exclusion of Chinese laborers; appoints meeting 13th instant at the Department for discussing it; sends also views upon the propositions of Mr. Chang relative to extradition and the execution of treaty stipulations; the draught of convention and memorandum on Mr. Chang's propositions inclosed.	371

CORRESPONDENCE WITH THE LEGATION OF CHINA AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
246	Mr. Chang Yen Hoon to Mr. Bayard.	1887. Aug. 16	Exclusion of Chinese: Objections stated at interview to the draught of convention; the consideration of them then promised; the words "as the laws of the United States may now or hereafter prescribe," in Article II, and "subject to such regulations by the Government of the United States as may be necessary" require modification; such laws and regulations should be restricted to conform with treaty, and not be unduly severe upon Chinese; two essential articles omitted from the draught, first, protection to be secured to Chinese laborers in the United States; regrets that suggestions to that effect were misunderstood; willing to leave the manner of protection to the United States Government; China has gone beyond treaty stipulations in protecting Americans in China; Chinese not protected in America; China not asking release from treaty, but reciprocity in treaty guaranties; Americans may claim different but not greater protection in China than Chinese in America; international rights reciprocal; demand for treaty guaranties on the part of the United States by China reasonable; decision of Chief-Justice that there is no law to protect Chinese; an article should be inserted in the treaty guarantying one; second essential article is one providing for indemnities; lack of a specific appropriation no reason for its omission; objects to leaving it to Congress; suggests a convention similar to that of 1858; regrets refusal to add article on extradition; difference of criminal procedure no objection, as extradition treaties have been made by the United States with Russia and Japan; again suggests a separate treaty stipulation on the subject.	375
247	Mr. Bayard to Mr. Chang Yen Hoon.	Dec. 28	Exclusion of Chinese: Violation of immigration laws by Chinese claiming to return to the United States and by the sale of Chinese women; public feeling requires stricter exclusion; United States and China in accord upon the subject; requests the assistance of Mr. Chang in framing a convention to prohibit immigration of Chinese laborers, and incloses a *projet* of a convention.	379
248	Mr. Chang Yen Hoon to Mr. Bayard.	1888. Jan. 9	Corean foreign mission: Repeated communications received from the Chinese Government in regard to sending an envoy to the United States by Corea, and one stating that the Corean Government had written to that of China that its envoy would report his arrival in the United States to the Chinese minister, who would accompany him to the State Department; that no further presentation would be necessary, but that the Chinese minister would interest himself in all matters when asked by the Corean envoy; Corea a vassal of China, and it is right he should interest himself in behalf of the Corean envoy; notified by the consul-general of his expected arrival; will present him at the State Department; the Corean envoy should apply for the appointment of a day to present his credentials to the President; hopes the minister's attendance will be dispensed with.	380
249	Mr. Bayard to Mr. Chang Yen Hoon.	Jan. 10	Corean foreign mission: Note received in reference to the coming of an envoy from Corea, and shortly after a letter from the Corean envoy requesting an interview to arrange for the presentation of his credentials; replied that he would be received the 13th instant, and soon thereafter presented to the President.	381
250	Mr. Chang Yen Hoon to Mr. Bayard.	Jan. 30	Exclusion of Chinese: Forty per cent. of the Chinese who were in the United States in 1880 returned home; few falsely claim the right to come to the United States; has written to the viceroy and governor of Canton to prevent the importation of women for immoral purposes; Chinese consul-general at San Francisco states few women were without return certifi-	381

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No.	From and to whom.	Date.	Subject.	Page.
250	Mr. Chang Yen Hoon to Mr. Bayard—Continued.	1888. Jan. 30	cates who arrived in December, and these were of good character, and bond was given for them; will write again to the authorities of Canton; the *projet* similar to the draught of convention of April 11, to which a reply was sent August 16; if the articles providing for indemnity and protection to Chinese be inserted, mutual agreement may be reached; sends reply August 16, and desires to discuss the subject at an interview.	
251	Same to same	Feb. 16	Murder of Chinese at Log Cabin Bar, Snake River: Ten Chinamen murdered at Log Cabin Bar by unknown parties; cowboys, reported by a Chinaman to have driven them from the Bar, suspected of the murders; Chinese consul-general had an interpreter sent to the point, and wrote to Mr. J. K. Vincent, who replied that evidences pointed to white men as the murderers and promised to communicate further information; none communicated; reward for apprehension of murderers offered by the consul-general; the United States Government requested to communicate with the local authorities to secure punishment of the criminals; fear that the murderous example will be imitated elsewhere; correspondence on the subjected inclosed.	383
252	Mr. Bayard to Mr. Chang Yen Hoon.	Feb. 23	Murder of Chinese at Log Cabin Bar, Snake River: Regrets to hear of the murder of Chinamen at Log Cabin Bar; statements meager, confused, and afford no clew; does not think the authorities of Idaho neglectful; crime stated to have been committed in Oregon, whose authorities have equal jurisdiction in the matter, but no information has been laid before them; will send the correspondence to the governors of Oregon and Idaho; advantage of all attainable evidence in the investigation.	387
253	Same to same	Feb. 29	Chinese exclusion: Copies of the additional articles, which it is proposed to number IV, V, and VI, in the convention inclosed.	388
254	Mr. Chang Yen Hoon to Mr. Bayard.	Mar. 3	Claim of Wachong & Co., managed by Chan Yee He: The greatest sufferers in the Seattle riot; claim $187,814.10; only $67,042.10 presented, $17,042.14 being uncollected debts; Chan Yee He a prominent and wealthy merchant; the firm rented houses to Chinese at $379 a month, which became unoccupied; compelled to ship their goods to Victoria and Portland, and sell $20,000 worth for $7,000; they were compelled to stop their contract work and pay $1 a day to sixty unoccupied men for eighty-two days; their business depended upon Chinese customers, and they have sustained heavy losses; violent treatment and consequent illness of Chun Yee He's wife, for which no claim has been made; Chan Yee He for twenty-four years a resident in the United States, ten years at Seattle, and pays $30,000 to the United States custom-house, not a common trader; his claims have been investigated and should be paid in full.	389
255	Same to same	Mar. 3	Claims of Chinese against the United States: According to request sends statement of claims, with a list of those based upon uncollected debts; claim on account of twenty-eight Chinese murdered at Rock Springs made for their families; the statement of claims inclosed.	390
256	Mr. Bayard to Mr. Chang Yen Hoon	Mar. 7	Claims of Chinese against the United States: The statement of claims received; will accept proposed modification of treaty, asking a reasonable limit to be put to the period within which Chinese leaving the United States must return; Rock Springs tragedy should be considered as closed; hopes that justice may reach the murderers, who were not United States citizens; expediency of concluding the convention at an early date; appoints conference for the 8th; signatures to be attached the 10th.	392

CORRESPONDENCE WITH THE LEGATION OF CHINA AT WASHINGTON—Continued.

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257	Mr. Bayard to Mr. Chang Yen Hoon.	Mar. 9	Exclusion of Chinese: Transmits draught of treaty to restrict Chinese immigration; articles agreed to at the conference on the 8th surrounded with red lines and numbered; prepared to sign the treaty when the Chinese text is ready, and requests copy of translation of the minister's power to execute the treaty.	393
258	Mr. Chang Yen Hoon to Mr. Bayard.	Mar. 12	Exclusion of Chinese: Informed the Government of China that he was negotiating a treaty to restrict Chinese immigration into the United States, and received the necessary powers for that end.	394
259	Mr. Bayard to Mr. Chang Yen Hoon.	Apr. 11	Murder of Chinese at Log Cabin Bar, Snake River: Transmits letter of governor of Idaho Territory upon the subject of the murder of Chinese at Snake River, Oregon; investigation made difficult by lack of information in spite of the good dispositon of the governor; copy of the governor's letter inclosed.	395
260	Same to same.....	May 8	Exclusion of Chinese: Treaty restricting immigration of Chinese approved by the Senate, with two amendments; amendments repeat what the treaty says, asks their acceptation by the minister, that the treaty may be at once ratified and proclaimed; copy of amended treaty inclosed.	396
261	Same to same.....	May 11	Exclusion of Chinese: Sends copy of treaty, with Senate amendments noted on margin; amendments do not alter treaty, but must be formally accepted and noted in certificates of exchange of ratification; delay regretted.	400
262	Mr. Chang Yen Hoon to Mr. Bayard.	May 12	Exclusion of Chinese: Accepts amendments of Senate to immigration treaty; have telegraphed amendments to China, and shall append them as a protocol to the treaty when ratified by the Chinese Government.	400
263	Same to same.....	May 14	Exclusion of Chinese: Will send the amended treaty to China, with the original signed treaty for the Government's decree; will communicate decree when received, and note amendments in certificate of ratification.	401
264	Mr. Rives to Mr. Chang Yen Hoon.	May 15	Murder of Chinese at Log Cabin Bar, Snake River: Importance of securing evidence against the men indicted for murdering the Chinamen at Snake River; the Chinese consul might greatly assist; no necessity for interference by United States authorized; letter from Mr. Slater to Mr. McArthur on the subject inclosed.	401
265	Mr. Chang Yen Hoon to Mr. Bayard.	May 20	Murder of Chinese at Log Cabin Bar, Snake River: Thanks for information in regard to the murder of Chinese in Oregon; will send copy to Chinese consul-general at San Francisco, and direct him to aid the local authorities.	403
266	Mr. Shu Cheon Pon to Mr. Bayard.	Sept. 25	Exclusion of Chinese: The Chinese minister cables that it is necessary to reconsider three points in the treaty: First, the period of exclusion, which should be shortened; second, it would be necessary to permit Chinese laborers who had returned to China before the signing of the treaty and have property in the United States to report the fact to the Chinese consul that they may obtain a return certificate; third, there should be a provision allowing laborers who have property worth less than $1,000 in the United States to return; the minister will return in twenty-two or twenty-three days.	403
267	Mr. Bayard to Mr. Shu Cheon Pon.	Sept. 26	Exclusion of Chinese: Acknowledges receipt of note stating three points the Chinese Government desires to be reconsidered; pleased to hear of the Chinese minister's expected return.	404

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No.	From and to whom.	Date.	Subject.	Page.
		1887.		
268	Mr. Bayard to Mr. Maury (No 12).	Feb. 25	Telegraph line across the Isthmus of Panama: The French Canal Company claims control of the telegraph line across the Isthmus; the railroad company say it is their private wire; importance to Government; the guaranties of the treaty of 1846 vague; if the telegraph comes under it, its use should be free and general; if that on the isthmus is a private wire, then there is lacking a means of intercourse and correspondence guarantied by the treaty.	405
269	Same to same (No. 44)	Nov. 14	Telegraph line on the Isthmus of Panama: Copy of a complaint against the Panama Railroad Company for refusing to receive telegraphic messages inclosed.	406
270	Mr. Maury to Mr. Bayard (No. 67).	Dec. 19	Telegraph line across the Isthmus of Panama: Communication to Mr. Holguin inclosed.	406
271	Same to same (No. 70)	Dec. 25	Telegraph line across the Isthmus of Panama: The Colombian Government states that the railway company holds no exclusive telegraph right across the Isthmus of Panama, and that the Government has ordered the governor of Panama to construct a line; this information verbal.	407
272	Same to same (No. 73)	Dec. 29	Telegraph line across the Isthmus of Panama: Communication from Mr. Holguin relating to the claim of the Panama Railway Company to exclusive telegraphic rights over the isthmus, inclosed.	407
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273	Mr. Bayard to Mr. Maury (No. 54).	Jan. 11	Quarantine of Colombian ports against Chili: Special instructions with regard to quarantine measures at Panama directed against Chili withheld, but greater restriction than is necessary to be deprecated; dispatch from our minister to Chili on the subject inclosed.	408
274	Same to same (No. 56)	Feb. 2	Telegraph line across the Isthmus of Panama: This amendment of the decision of the Colombian Government that the telegraph line across the Isthmus of Panama is a private wire—not a monopoly—and that that Government will erect a line, the use of which is tendered to the United States, a gratifying proof of amity and of a desire to facilitate the mutual obligations of the two countries in regard to the Isthmus.	408
275	Mr. Walker to Mr. Bayard (No. 88).	Feb. 13	Political and financial: Return of President Nuñez to the government; no disturbance anticipated; bad financial condition of the country; *vales* issued to pay the indebtedness of the Government; these payable at the rate of 6 per cent. annually out of the revenues; not usable in commercial transactions, and bought up by the Government bank at 55 per cent. of face value, in its own notes, about 30 per cent. in United States money; no payment on foreign bonded debt since 1880; a committee of English bondholders, with authority to make arrangements with the Government expected; the treasury bankrupt and future revenues discounted, so that no arrangement is probable.	409
276	Same to same (No. 89)	Feb. 20	Quarantine against Chili: Copy of note to Columbian minister in regard to quarantine against cholera in Chili inclosed.	409
277	Same to same (No. 90)	Feb. 25	Passport of F. W. Putnam: Wishes to know if conviction in a court of a foreign country deprives an American of a right to demand a passport. F. W. Putnam, born of American parents in the United States, obtained a passport from the American minister in 1884 and was shortly after convicted of a felony in a Colombian court and served his sentence; he now applies for a passport; thinks he has a legal right, but asks instruction in the matter, and also whether a minister can refuse a passport to an American citizen of notoriously bad character.	410
278	Same to same (No. 92).....	Mch. 1	Quarantine against Chili: Copy of reply of the Colombian minister to note of the 20th ult. on the subject of quarantine inclosed.	410
279	Mr. Bayard to Mr. Walker (No. 63).	Mch. 6	Ice monopoly on the isthmus of Panama: Prompt action desirable in regard to the ice monopoly on the Isthmus of Panama. The Boston Ice Company, composed of Americans, twenty-three years engaged in the ice, lumber, and gen-	411

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279	Mr. Bayard to Mr. Walker (No. 63)—Continued.	Mch. 6	eral merchandise business on the Isthmus of Panama. Its principal dealing is in ice, and it is the only company in that business. By a decree of November 21, 1887, the importation and sale of natural ice in the department of Panama made a monopoly, reserving to the Government the right to sell it to a private person or company, who, with the Government's consent, may transfer the monopoly to another, and providing that from the day the grantee entered upon the enjoyment of the monopoly no one could sell ice without the grantee's consent. Invitations for bids and terms of the concession published January 21, 1888; the legality of the establishment of a monopoly, and of this contract, under the laws of Colombia, as applicable to native citizens, to be ascertained and reported; if illegal, further instructions to be awaited; if legal, the injury to the Boston Ice Company, and thus to American capital, from developing the resources of Colombia, which would result from enforcing the decree, to be presented to that Government; the spirit of the treaty of 1846 one of closest amity, and under it much benefit derived from the good offices of the United States by Colombia; a severance of interest would cause a diminution of good feeling; a modification of article 7 of the concession to be asked; no wish to interfere with the laws of another country, but to protect American citizens; desire that emigration to Colombia should continue; monopolies injurious to trade; no condition valid which forbids a citizen to appeal to his own government; no reason for the United States to believe that discrimination against its citizens was meant, and the matter to be presented personally, not officially. Decree of the Colombian Government No. 719, of November 21, 1887, invitation for bids and terms of the contract for the ice monopoly inclosed.	
280	Mr. Walker to Mr. Bayard (No. 95).	Mch. 6	Concordat between the Holy See of Rome and the Colombian Government: The Spanish translation of the concordat between the Holy See of Rome and Colombia ambiguous. Translations of the concordat and of law 30, which virtually annuls civic marriages not canonically performed, but does not illegitimatize children.	416
281	Mr. Bayard to Mr. Walker (No. 68).	Mch. 29	Passport of F. W. Putnam: A foreign conviction not extra-territorial, and does not bar the right of American citizens to a passport; inquiries should be made whether Mr. Putnam retains his American nationality before granting him a passport.	420
282	Mr. Walker to Mr. Bayard No. 105).	Apr. 7	Ice monopoly on the isthmus: Complaint of the Boston Ice Company; granting of such monopolies in accordance with Colombian custom; exclusive privilege of selling certain commodities sold to highest bidder; action taken by minister.	420
283	Mr. Bayard to Mr. Walker (No. 75).	Apr. 17	Quarantine against Chili: The Postmaster-General holds that there is no ground for complaint on account of the closing of the ports of the isthmus against Chili if they are opened as soon as danger of infection has passed; the Department thinks the measure is extreme; mails are being sent to Chili via Buenos Aryes.	422
284	Same to same (No 78).....	Apr. 28	Capitation tax on United States citizens: United States citizens required to pay a capitation tax from which British subjects are exempt by the treaty of 1866; reply made to the United States consul-general's protest that the matter had been referred to the supreme government; United States citizens are exempted from this tax if others are by the "favored nation" clause of treaty of 1846 and by general principle, of international law; the question and the Department's views are to be presented to the Colombian Government.	422

COLOMBIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1888.		
285	Mr. Bayard to Mr. Walker (No. 81).	June 6	Claim of the Panama Star and Herald: Hopes that the Colombian Government will consider the claim of the Panama Star and Hearld on its merits, and not with reference to other claims, as it does not fall within the lines of the negotiation for claims for destruction of property during the disturbances on the isthmus. Letter of S. Myers on the subject inclosed.	423
286	Mr. Walker to Mr. Bayard (No. 116).	June 7	Capitation tax on United States citizens: Note of May 30 to the Colombian minister in regard to the levying of capitation tax on Americans on the Isthmus of Panama, and his reply inclosed.	424
287	Same to same (No. 122).....	July 21	Political: Translation of the law giving the Colombian President extraordinary powers inclosed.	425
288	Mr. Maury to Mr. Bayard (No. 133).	Aug. 1	Uncomplimentary remarks in President Nuñez's message about foreigners: All foreign legations sent notes similar to the American legation's to the minister of foreign affairs, relating to a passage in President Nuñez's message to the Colombian Congress. Correspondence of the legation on the subject inclosed.	425
289	Same to same (No. 136).....	Aug. 9	Uncomplimentary remarks about foreigners by President Nuñez in his message: General disapproval of President Nuñez's message; a proposition in the Colombian senate to send a congratulatory reply to President Nuñez withdrawn because of his insulting references to foreign governments; Dr. Holguin installed President; his inaugural address inclosed.	427
290	Mr. Bayard to Mr. Maury (No. 100).	Sept. 14	Uncomplimentary remarks by President Nuñez about foreigners: Dispatch No. 136, referring to the political condition of Colombia, the disapproval shown of President Nuñez's remarks about foreigners, and inclosing inaugural address of Dr. Holguin received.	429
291	Same to same (No. 114).....	Nov. 27	Ice monopoly on the isthmus: The decree of the Colombian Government granting a monopoly of the sale of ice, on condition that the right of the grantees, if foreigners, to seek redress through their own government be waived, is in contravention of treaty stipulations and international law; extracts from the treaties in support of this position; the guaranty of the neutrality of the isthmus given to secure perfect equality of citizens of the United States in Colombia; the assistance given Colombia should not be forgotten; the creation of the monopoly injurious to Colombian trade; United States citizens should be protected by the Colombian Government; a formal protest believed unnecessary.	429

COREA.

		1887.		
292	Mr. Dinsmore to Mr. Bayard (No. 53).	Sept. 30	Corean mission to the United States: Opposition of Chinese minister in Corea thereto, and efforts made by him to prevent its departure; China claims suzerainty and necessity of her consent before Corea may send missions abroad; correspondence with Chinese minister inclosed.	433
293	Mr. Bayard to Mr. Dinsmore (No. 38).	Oct. 7	Corean mission: Telegram not wholly intelligible, but enough known to warrant an expression through the United States legation at Peking of surprise and regret that China should obstruct the sending of Corean envoys; developments awaited; Mr. Denby to be advised with; vessel of war at Chemulpo for protection of American interests.	436
294	Mr. Dinsmore to Mr. Bayard (No. 63).	Oct. 15	Corean mission: The discussion with the Chinese minister upon the relations of China and Corea unavoidable; Mr. Yuan using the argument of the recognition of Corea's dependency by the United States to affect foreign and Corean public opinion favorably to China's pretensions; a printed document circulated, purporting to be a copy of the American-Corean treaty, in which	436

COREA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
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294	Mr. Dinsmore to Mr. Bayard (No. 63)—Continued.	Oct. 15	the dependency of Corea is acknowledged; neither encouraged nor discouraged the mission to the United States; surprised that after favoring the mission to Japan, China opposed that to the United States; informed by the King that the minister to the United States will start in a few days; Judge Denny, foreign adviser, gone to see the viceroy of Tientsin; his purpose unknown.	
295	Same to same (No. 67).....	Oct. 24	Military instructors for Corea: The Department's telegram requiring a guaranty of good pay, etc., for military instructors communicated to the Corean Government, and the guaranty given; announcement sent by cable from Nagasaki at King's expense, who is anxious for the instructors to arrive; the house for their use unfurnished, new, and too small; accommodations promised.	437
296	Mr. Bayard to Mr. Dinsmore (No. 44).	Nov. 1	Courtesies to Rear-Admiral Chandler: Letter from the Acting Secretary of the Navy covering a communication from Rear-Admiral Chandler, commanding the Asiatic squadron, reporting courtesies of Mr. Dinsmore; reply made that the existence of cordial relations between diplomatic and naval officers is gratifying and necessary in the East; above letters inclosed.	438
297	Mr. Dinsmore to Mr. Bayard (No. 71).	Nov. 11	Corean mission: Invited, together with the Russian chargé d'affaires, by Mr. O. M. Denny, vice-president of the Corean home office, and foreign adviser to the King, on his return from a visit to the Viceroy Li Hung Chang at Tientsin, to an interview on the subject of the Corean foreign missions; Mr. Denny gave history of the conference on the missions and on opening a port at Pejong Au in Corea; viceroy's position that the permission of China should have been first obtained; the Corean minister, accredited as envoy extraordinary and minister plenipotentiary, will sail for the United States 13th instant; translation of a communication from Yuan Su Kwai to the Corean foreign office, giving the assent of the Chinese Government to Corea's establishing missions abroad, with ministers resident only, but arguing against it, inclosed.	440
298	Same to same (No. 73).....	Nov. 17	Corean mission: Telegram from Viceroy Li Hung Chang to the Chinese representative in Seôul, directing him to inform the Corean Government that their representatives abroad must first present themselves to the Chinese minister and be introduced by him at the foreign office; that he shall yield precedence to the Chinese minister and consult with him on important matters before acting; the Corean minister sailed for the United States 16th instant; translation of telegram inclosed.	441
		1888.		
299	Mr. Bayard to Mr. Dinsmore (No. 60).	Jan. 3	Infectious diseases: Transmits text of regulations for prevention of introduction of infectious diseases at the treaty ports of Corea; the German Government excepts to two of the provisions: (1) Infectious diseases must be defined as cholera, plague, yellow fever, small pox, and nothing else; (2) Article 6 is either to be struck out or the kind of disinfection specified; these criticisms reasonable; typhoid fever and scarlet fever might be added; consultation with colleagues may lead to modification of regulations by the Corean Government; the regulations inclosed.	442
300	Same to same (No. 63).....	Jan. 26	Corean mission: Dispatch touching communication of telegram from the Viceroy Li Hung Chang to the Chinese representative at Seôul in regard to the formalities for presentation of Corean minister received about the time of his arrival in San Francisco, where every courtesy was shown; arrival in Washington of Mr. Pak Chung Yang on the 9th instant; his letter of the 10th requesting interview to arrange for presentation of credentials, and reply assenting	443

COREA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
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300	Mr. Bayard to Mr. Dinsmore (No. 63)—Continued.	Jan. 26	thereto; note received the previous day from the Chinese minister reciting his instructions; call from the Chinese minister the day before the interview with Mr. Pak and expression of satisfaction at Mr. Pak's reception; no other intimation of interference; both to be treated as representatives of independent states; reception of Mr. Pak at the Department and presentation to the President; Mr. Pak's name omitted from diplomatic dinner on account of his arrival after the issue of invitations, and no significance attached to the omission; correspondence on the subject of the Corean envoy, exchanged with him and the Chinese minister, and diplomatic list showing order of precedence inclosed.	
301	Same to same (No. 66).....	Mar. 20	Corean mission: Copy of dispatch from the United States minister at Peking covering a translation of a letter from the King of Corea to the Viceroy Li Hung Chang, referring to the vassalage of Corea and her diplomatic representatives, published in a Chinese paper, inclosed.	444
302	Mr. Dinsmore to Mr. Bayard (No. 105).	Apr. 21	Missionaries in Corea: Importance of the question of missionary work; remonstrances against imprudent zeal kindly received by the missionaries; at first religious meetings held only for foreigners, now for natives; journeys made into the interior for religious teaching; these institutions favorably regarded by natives, and patience and regard for the laws only necessary to secure religious freedom; the Methodist mission school named by the Corean Government in token of approval; the right of foreign residents to build a church dependent upon the favored-nation clause and grant of the right of free exercise of religion to other nations; none of them have built a church; Seoul liable on the happening of a contingency to be closed to foreigners; French missionaries erecting a building for school and religious purposes near a temple and the palace of the King, who has offered to return them the purchase-money and procure them new ground, but the offer has been refused; the Coreans opposed to the building and the matter will be the subject of diplomatic correspondence between France and Corea; Coreans awaiting the arrival of the French representative that the affair may be amicably settled.	444
303	Same to same (No. 106).....	Apr. 28	Missionaries in Corea: Corean Government complains that American teachers are engaged in evangelical work; claims the right to refuse or allow schools; thinks there is no desire to interfere with schools further than to prevent religious teaching; Mr. Dinsmore's influence to effect observance of treaty promised; sent note to Mr. Appenzeller and Mr. Underwood, who had gone on missionary work to the north of Corea, to accede to the Corean demands until their right was established; letter sent by their missions asking them to return.	446
304	Mr. Bayard to Mr. Dinsmore (No. 71).	June 15	Missionaries in Corea: Approves discouraging aggressive attempts of missionaries to enlarge their privileges; their desire landable, but incautious and aggressive acts will create opposition and defeat their efforts in a country of the character of Corea; translation of sections 2 and 4, article 4, and section 2, article 9 of the Franco-Corean treaty giving the right to Frenchmen to buy and lease lands, practice their religion, and teach the sciences, laws, and arts; no warrant for religious teaching among the natives deducible from this; unfortunate if well-meant efforts in opposition to treaty and protest of the Corean Government should arouse the hostility of the natives.	447

COREA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1888.		
305	Mr. Dinsmore to Mr. Bayard (No. 115).	June 25	Disturbance in Seoul caused by the rumor that children were being stolen by natives for foreigners: People killed by the mob; stories of the cruelties and uses to which foreigners put the children; Japanese and Americans most suspected; threats to attack the American quarter; twenty men requested of Commander Jewell for protection; similar precautions taken by other legations; quiet restored; action approved by Corean Government; troops to be kept until crowd brought by the examinations to Seoul leaves; correspondence with colleagues and the foreign office during the disturbance will be reported in full.	448
306	Same to same (No. 116).....	July 1	Disturbance in Seoul: The detachment which had been requested to protect Americans in Seoul sent back to the *Essex;* prompt response of Commander Jewell to the request for sailors; this necessitated by the emergency of the situation, without the Department's permission; note written to the foreign office on the 18th, when threats were made of attacking the Americans, to issue a proclamation stating the falsity of the rumors about them; proclamation submitted which would rather increase than allay the excitement; proclamation of all the foreign ministers, except the Chinese; its good effect; proclamation of the King denying the stealing of children by Americans; reports of abductions exaggerated and innocent people killed; universal respect and kind treatment of foreigners; old hostility toward Japanese; Lt. Foulke mistaken for a Japanese when attacked; quiet restored; the *Essex* sails from Chemulpo, leaving the *Juniata* there; note of Mr. Dinsmore to the foreign office, June 18, and proclamation of foreign minister inclosed.	449
307	Same to same (No. 124.).....	July 18	Telegraphic line between Seoul and Fusan: Three intermediate stations; line 400 miles long; rate 22 sen per word; direct communication with the cable at Fusan and independence of China secured; the line controlled and operated by Coreans; built by Mr. Halifax, an Englishman.	452
308	Mr. Bayard to Mr. Dinsmore (No. 78).	Aug. 4	Disturbance in Seoul: Commendation of Mr. Dinsmore's precautions and the prompt assistance rendered by the Navy, by which grave consequences from the troubles at Seoul were averted.	452

CORRESPONDENCE WITH THE LEGATION OF COREA AT WASHINGTON.

		1888.		
309	Mr. Pak Chung Yang to Mr. Bayard.	Jan. 10	Presentation of credentials: Announcing his appointment as envoy extraordinary and minister plenipotentiary from the King of Corea to the United States and requesting an interview to arrange for the presentation of his credentials.	453
310	Mr. Bayard to Mr. Pak Chung Yang.	Jan. 10	Presentation of credentials: Mr. Pak Chung Yang will be received at the Department Friday, 18th instant, and accompany him at an early day to present his credentials to the President.	453
311	Mr. Pak Chung Yang to Mr. Bayard.	July 16	Telegraphic lines completed to Fusan, and connecting there with the Japanese cable; will in future send telegraphic dispatches to Seoul by that route.	454

CORRESPONDENCE WITH THE LEGATION OF COSTA RICA AT WASHINGTON.

		1888		
312	Mr. Rives to Mr. P. Perez Zeledon.	Jan. 16	Boundary dispute with Nicaragua: The President has delegated to Mr. Rives his authority as arbitrator of the treaty of limits between Nicaragua and Costa Rica.	455

CORRESPONDENCE WITH THE LEGATION OF COSTA RICA AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1888.		
313	Mr. Bayard to Mr. Perez Zeledon.	Mar. 22	Boundary dispute with Nicaragua: The decision of the President as to the validity of the treaty of limits of 1858, between Nicaragua and Costa Rica, has been received in triplicate; one original is to be given to the representative of the Government of Costa Rica, one to the representative of the Government of Nicaragua, and one to be filed in the Department of State; the Department is appointed as the place of delivery.	456
314	Decision of the President of the United States, arbitrator between Nicaragua and Costa Rica.	Mar. 22	Boundary dispute with Nicaragua: Boundary treaty of 1858, between Nicaragua and Costa Rica valid; Costa Rica has not the right to navigate the river San Juan with vessels of war, but may with vessels of her revenue service; answers the fourteen points of doubtful interpretation communicated by Nicaragua; the report of Mr. G. L. Rives inclosed.	456
315	Mr. Perez Zeledon to Mr. Bayard.	Mar. 26	Boundary treaty with Nicaragua: A copy of the decision of the President as to the validity of the treaty of 1858, between Nicaragua and Costa Rica received; expresses the appreciation and obligation of his Government.	468
316	Señor Volio to Mr. Bayard..	Sept. 19	Discriminatory duties, retaliatory, reported imposed on Costa Rican vessels in the United States; the 5 per cent. rebate given by the Costa Rican Government for services rendered in carrying mails, etc., not by way of preference or discriminatory, is open to all lines; the order of the United States Treasurer the result of wrong information, and its annulment hoped for.	469
317	Mr. Bayard to Señor Volio..	Sept. 29	Discriminatory duties on Costa Rican vessels in United States ports complained of as unjust, and the rebate granted to certain lines by the Costa Rican Government, on which the act of the United States was based, denied to be a similar discrimination, by Señor Volio, on the ground that the same may be obtained by all lines; the argument not admissible; the rebate contrary to favored-nation clause and equality of duties guarantied by Article VI of the treaty with Costa Rica, and compliance with the conditions on which it is granted not possible to foreign vessels; desire of the United States to develop the commerce of Central America and regret that this disapproval is necessary.	470

DENMARK.

		1887.		
318	Mr. Bayard to Mr. Anderson (No. 53).	July 22	Petroleum tests: A needlessly severe test, operating in favor of Russian and against American petroleum regarded as unfriendly discrimination, and to be opposed by proper representations to the Danish Government; requests copy of bill pending in the Danish legislature on the subject, upon receipt of which further instructions will be sent.	472
319	Same to same (No. 55)	July 30	Protection of Swiss: For guidance in the protection of Swiss citizens in Denmark, a note to Mr. Kloss, Swiss chargé d'affaires, on the subject inclosed.	472
320	Mr. Porter to Mr. Anderson.	Sept. 8	Convict emigration to the United States: Representations have been made that Denmark furnishes convicts with clothes and money and sends them to the United States; the facts to be ascertained and reported to the Department.	473
321	Mr. Anderson to Mr. Bayard (No. 152).	Sept. 13	Petroleum bill pending in the Danish legislature and the Government remarks thereon inclosed.	473
322	Same to same (No. 156)	Oct. 12	Pork: A movement in Germany to compel Denmark to exclude American pork; pork from America reshipped in Denmark to Germany; trichinosis in Hamburg attributed to this source by the German Government, which desires to know whether American pork is admitted; reason to believe that the request will	475

DENMARK—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1887.		
322	Mr. Anderson to Mr. Bayard (No. 156)—Continued.	Oct. 12	be made to exclude American pork; no trichinosis in Denmark, owing to thorough cooking; many cases in Germany because pork is eaten raw.	
323	Same to same (No. 159).....	Oct. 18	Convict emigration to the United States: The reports of the sending of convicts to the United States from Denmark due to an article in the "Morgenbladet" last spring, which stated that a counterfeiter named Reimenschneider had been released from prison on condition that he would go to the United States, whither he had been sent; he sailed for Scotland under an assumed name; convicts pardoned in Denmark on condition that they leave the country, but at liberty to go where they please; most go to the United States; circumstances of Reimenschneider's forgery; in the United States with his family, probably via England or Germany; his partner refuses pardon; reports of sending paupers to America, but no particulars known; suspicious case of a pauper family; inspection at American ports advised; impossible to inspect European ports.	476
324	Mr. Bayard to Mr. Anderson (No. 62).	Nov. 1	Pork: The reported attempt of Germany to influence Denmark to exclude American pork important; must be watched and reported; arguments to show the needlessness of such action and its harm to trade relations may be drawn from inclosed executive document.	477
325	Same to same (No. 64)	Nov. 16	Convict emigration to the United States: Satisfaction of the Department with report upon deportation of ex-criminals to the United States, copy of which has been sent to the Secretary of the Treasury; watchfulness to be continued and any actual case to be reported to the Department and the collector of the port of destination.	478
326	Mr. Anderson to Mr. Bayard (No. 168).	Dec. 5	Pork: A shipment of pork to Paris sold well; another to Bordeaux confiscated on the ground that it was American pork; the shipper states that it was not; a correspondence between the two Governments on the matter; pork plague in Sweden and Denmark, which may lead to the exclusion of pork from those countries by Germany; possible that if excluded once, Germany will not admit Danish pork unless Denmark excludes American pork; director-general of the Danish foreign office denies all intention of excluding American pork; export of pork to Germany from Denmark, $5,333,000 annually, and Denmark will only exclude American pork when compelled by Germany and other countries, to avoid losing the income from exporting to those countries.	478
327	Mr. Anderson to Mr. Bayard (telegram).	Dec. 9	Extradition of J. A. Benson: J. A. Benson and brother, indicted in the United States for conspiracy and fraud, arrested in Copenhagen. Denmark will surrender them if the United States Government instructs a demand to be made for them and states that Benson and his brother are United States citizens, that Benson is indicted, naming his crime, and if an order of arrest, issued by a proper court, is sent, Denmark will transport the two men to America in charge of police at the expense of the United States. Answer at once. Benson and accomplice in jail.	479
328	Mr. Rives to Mr. Anderson (telegram).	Dec. 12	Extradition of J. A. Benson: Benson indicted in United States circuit court, California, for forging land-grant papers; his description; his brother not indicted; copies of indictments, order of arrest, and other papers will be sent at once to Copenhagen with officer to receive him; assurances that Denmark extradites without treaty; United States can only extradite with treaty.	479
329	Mr. Anderson to Mr. Bayard (telegram).	Dec. 14	Extradition of J. A. Benson: Benson's identity certain; send officer to receive him at once; Denmark will extradite without treaty; key to Benson's cipher dispatches found; give instructions to ask for copies of his dispatches sent and received here.	480

DENMARK—Continued.

No.	From and to whom.	Date.	Subject.	Page.
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330	Mr. Anderson to Mr. Bayard (No. 184).	Dec. 16	Extradition of J. A. Benson: His brother will be released from jail December 21, and sail for New York the same day.	480
331	Same to same (No. 187).....	Dec. 22	Pork shipped to New York from Denmark. An epidemic among hogs in that country. Germans attempt to give the idea that the disease was imported from America.	480
		1888.		
332	Mr. Bayard to Mr. Anderson (No. 68.)	Jan. 6	Extradition of J. A. Benson: The Department of Justice at once informed that the Danish Government would surrender John A. Benson, charged with fraud, and steps taken to procure evidences of his guilt; delay on account of difficulty of procuring proofs; copies of twelve indictments found against him, with warrants of arrest, transmitted; the Danish Government to be requested to give copies of the telegrams Benson sent and received, and any other evidences of guilt.	481
333	Same to same (telegram)....	Jan. 7	Extradition of J. A. Benson: Papers sent. Will Benson be delivered to United States officers, if sent to Europe?	481
334	Mr. Anderson to Mr. Bayard (telegram).	Jan. 8	Extradition of J. A. Benson: His identity established; will be delivered to United States officer; send officer at once.	482
335	Same to same (No. 199).....	Feb. 1	Extradition of J. A. Benson: In charge of Marshal Franks he sailed for United States January 30th ultimo; Benson and brother, under the names of Pomeroy and Franks, claimed to have come from Canada to England to buy cattle; clippings from newspapers in regard to Benson and similar cases found in their trunks excited suspicion; information communicated to United States minister; interview with Danish minister of foreign affairs, and his promise to extradite the criminals; telegrams of 9th and 11th, and answer of the Department of the 12th, ordering demand for extradition; arrival of Marshall Franks with indictments; Danish officer allowed to accompany the prisoner to the border, but not to Bremen, to avoid complications with Germany; telegraphed to Consul Loening, at Bremen, who promised assistance.	482
336	Same to same (No. 202).....	Feb. 3	Pork: Efforts of Germany and Sweden and Norway to induce Denmark to exclude American pork by threatening to prohibit importation of Danish pork; Danish pork-raisers endeavoring to effect the same end; claim that the swine disease was imported from America.	483
337	Same to same (No. 207).....	Feb. 24	Extradition of J. A. Benson: Most of the papers requested of the Danish Government in the Benson case sent with United States marshal; thirteen telegrams, sent by Benson, inclosed.	484
338	Same to same (No. 208).....	Feb. 24	Discrimintion against United States vessels: Note to Baron Rosenörn Lehn requesting to be informed if there was any discrimination against United State vessels in Danish ports, and the baron's reply inclosed.	484
339	Same to same (No. 209).....	Feb. 25	Tonnage and navigation dues: Department's circular of July 9, 1887, made the subject of two notes, one requesting the information desired, the other inviting the co-operation of Denmark; no reply received to the second, but efforts being made to abolish all tonnage and navigation charges.	485
340	Same to same (No. 210).....	Feb. 27	Petroleum tests: The upper house of the Rigsdag expected to amend the petroleum bill so as to make the fire test of petroleum 40 degrees Celsius.	486
341	Same to same (No. 214).....	Mar. 12	Pork: Importation of American pork prohibited on the 10th instant; translation of the published order.	486
342	Mr. Bayard to Mr. Anderson (No. 80).	Mar. 24	Petroleum tests: The progress of the petroleum bill in the Rigsdag to be watched, and such representations to be made to the Danish Government as American interests require; letter to the Department from Mr. Flagg, attorney of the Standard Oil Company, inclosed.	487

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No.	From and to whom.	Date.	Subject.	Page.
343	Mr. Anderson to Mr. Bayard (No. 216.)	Apr. 2	Petroleum tests: Telegram to the Department to the effect that a higher petroleum test would seriously injure American commerce with Denmark communicated to the foreign office; an amendment to the petroleum bill reported, raising the fire test to 40 degrees Celsius; no legislation on the subject probable this session.	487

CORRESPONDENCE WITH THE LEGATION OF DENMARK AT WASHINGTON.

344	Count Sponneck to Mr. Bayard.	1888. Mar. 26	Citizenship of C. A. B. Johnson: He petitions to be released from his United States citizenship; born in the United States, but has resided ever since he was 2 years old and intends to remain in Denmark; made a citizen of Denmark by special law, which requires that evidence must be submitted within a year of release from foreign citizenship; such a release requested for Mr. Johnson; his petition and certificate of birth inclosed.	488
345	Mr. Bayard to Count Sponneck.	Apr. 10	Citizenship of C. A. B. Johnson: The Department can not give the certificate of release from American citizenship, but expatriation recognized by United States Government, and position of the Department that naturalization or renaturalization in a foreign country takes away rights of American citizenship; in this case there is also applicable the rule that a child born in a foreign country, during minority has the domicile of its parents, but may elect when *sui juris*, and the best proof of election is continued residence and discharge of the duties of a citizen of the country elected.	489

ECUADOR.

346	Mr. Reinberg to Mr. Rives (No. 161).	1888. Oct. 17	River and coasting trade of Ecuador open after January 1, 1889, to vessels flying foreign flags by decree of Ecuadorian Congress; the right to stop all traffic and close any or all ports during revolution or war reserved.	490
347	Mr. Rives to Mr. McGarr (No. 60).	Oct. 24	Claims against Ecuador; Ecuadorian law exempting country therefrom; its provisions stated; United States regards them as subversive of principles of international law, and can not acquiesce in any attempt on the part of Ecuador to use such law as an answer to a claim presented by it.	490

FRANCE.

348	Mr. Vignaud to Mr. Bayard (No. 471).	1887. Aug. 29	Tonnage and navigation dues: Mr. Flourens has submitted the matter to his colleagues; he desires three copies of Department's circular of July 9, 1887.	493
349	Mr. Bayard to Mr. McLane (No. 268).	Oct. 20	Case of J. Fruchier: Information requested as to progress made in the case of J. Fruchier, to answer the letter of the governor of Nevada; the letter of the governor of Nevada to Mr. Bayard and Mr. Bayard's reply inclosed.	493
350	Mr. McLane to Mr. Bayard (No. 495).	Nov. 4	Case of J. Fruchier: The French Government has declined, as usual, to take any action in the case of John Fruchier, on the ground that no Frenchman can be discharged from military service because he has acquired a foreign citizenship unless he has the judgment of a French civil court recognizing his change of nationality; did not report the answer because it is the usual one, and is following it up with a view of questioning the propriety and justice of the position of the French Government.	493

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351	Mr. McLane to Mr. Bayard (No. 505).	Nov. 18	Medal struck by the committee of the Bartholdi Statue, in honor of the President's presence at its inauguration, and a letter accompanying it from M. de Lesseps, the president of the committee, to President Cleveland inclosed.	494
352	Mr. Bayard to Mr. McLane (No. 278).	Dec. 3	Medal for the President, commemorative of the inauguration of the Statue of Liberty, received.	494
353	Mr. Vignaud to Mr. Bayard (No. 519).	Dec. 16	Case of Albert Gendrot, an American citizen, summoned to perform military service in France; His father came to America in 1847; in 1870 went for a short time to France; in 1885 went again to France with his family; Albert Gendrot, aged nineteen, an artist, had an American passport; ordered to join his regiment, to which he protested; protest of Mr. McLane to Mr. Flourens; Gendrot imprisoned November 8; Mr. McLane's note requesting his release; Mr. Flouren's reply announcing his release not altogether satisfactory; Mr. Gendrot again ordered to join his regiment and threatened with arrest; Mr. Vigraud's note calling Mr. Flouren's attention to the fact.	495
354	Same to same (No. 520).....	Dec. 20	Case of A. Gendrot: Note received from Mr. Flourens, the 16th instant, stating that no irregularity had been committed in the case of Gendrot, who, being the son of a Frenchman, was liable to military service in France though born in another country; replied that the United States Government would not admit his pretention, begging him to defer action and examine the principles in a friendly spirit; note of Mr. Vignaud to Mr. Flourens, December 15, and Mr. Flouren's reply of the 17th, inclosed.	497
355	Mr. Bayard to Mr. McLane (No. 285).	Dec. 28	Case of A. Gendrot: Action in the case of A. F. Gendrot approved; good offices to be continued to obtain his relief from military obligations; Gendrot to be informed that remaining in France after becoming of age may cause him to be regarded as a Frenchman, and his only course to return to America.	498
356	Mr. Vignaud to Mr. Bayard (No. 526).	Dec. 29	Case of A. Gendrot: Mr. Flouren's reply to the last note insisting upon the discharge of Gendrot, that the minister of war can not comply with this request without a judgment of a civil court that Gendrot is not a French citizen; by the laws of France the courts can declare one naturalized abroad not a Frenchman, but one born of French parents is considered a Frenchman, and Gendrot's application to the courts would be of no avail; learning that he was about to be arrested, he has left France; Mr. Flouren's note of December 28 inclosed.	499
		1888.		
357	Mr. Bayard to Mr. McLane (No. 287).	Jan. 13	Treaty between France and King of Johanna: Dispatch received from consul at Zanzibar that a treaty has been made between France and the King of Johanna, and the statement is made in print that France has taken possession of that Island; a statement of France's relations with that island and copies of any treaties made to be asked of the French Government for the protection of American citizens there.	500
358	Same to same (No. 289)	Jan. 23	Pork: The legation to use every effort to induce the withdrawal of the prohibition of American pork; dispatch from Consul Dufais, relative to renewed efforts at Havre to effect a repeal of the prohibitory laws, inclosed.	500
359	Mr. McLane to Mr. Bayard (No. 538).	Jan. 24	Cases of Arbois and Fruchier: Pierre Arbois and John Fruchier, American citizens, serving in the French army; contends, in note to Mr. Flourens, that the claim by the United States is a sufficient proof of American citizenship, and declines to go before the courts; formally renewed the demand for the release of Americans in French army, and claims the same rights for American-born citizens of French parents as for Frenchmen who are naturalized American citizens; note closes with an effort to impress the necessity of equitable arrangement and a promise to consider any proposition to that end; from conversations with Mr. Flourens expects some agreement will be reached as	502

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359	Mr. McLane to Mr. Bayard (No. 538)—Continued.	1888. Jan. 24	to mode of establishing naturalization; no disposition shown by Mr. Flourens to yield in the matter of native Americans born of French parents; note to Mr. Flourens, January 24, 1888, inclosed.	
360	Mr. Bayard to Mr. McLane (No. 292).	Feb. 3	Convict deportation to the United States from Tahiti: The Department pleased at the speedy execution of the French decree prohibiting the deportation of criminals from Tahiti to the United States; copy of dispatch from the United States commercial agent at Nourmé, covering copy of the decree inclosed.	506
361	Mr. McLane to Mr. Bayard (No. 543).	Feb. 9	Convict emigration from New Caledonia to the United States: Notes from the governor of New Caledonia in relation to facilities given liberated convicts to come to the United States inclosed.	507
362	Same to same (No. 545).....	Feb. 9	Pork: No information of an attempt to repeal the laws prohibiting the importation of American pork other than the newspaper articles transmitted by Mr. Dufais; no notice taken by the Government of it; note to Mr. Flourens stating instruction received, and reminding him of previous correspondence and interviews; the matter called to the attention of President Carnot, who expressed his desire to satisfy the complaint of discrimination; President Carnot aware of previous interviews with Mr. Flourens and Mr. Bouvier, in which they had been informed that bad feeling would be produced by this discrimination; result of efforts for the repeal of the prohibitory laws uncertain on account of political agitation; refers to previous dispatches for history of legation's action in the matter; the consequent disarrangement of commercial relations has prevented a recommendation of retaliation; hope of obtaining from the executive a decree substituting inspection of American pork and its admission at the rate of duty of all other pork; no encouragement ever given by any minister to hope for satisfactory results from the present Chamber; contention of Mr. Flourens that the exclusion of a particular import is a domestic question, not an unfriendly act.	508
363	Same to same (No. 505)	Feb. 14	Letters rogatory issued by the court of common pleas of New York sent to Mr. Rathbone, transmitted by the legation to the foreign office, and returned to the legation with a request for the precise address of the parties, and for information whether such letters issued by a French court of justice would be executed in the United States; the latter question submitted to the Department.	510
364	Mr. Bayard to Mr. McLane (No. 298).	Feb. 15	Citizenship and military service: Three points dealt with in Mr. McLane's note of January 24 to Mr. Flourens: (1) Native-born citizens not of French parentage; (2) Persons born in the United States of French parentage; (3) Naturalized American citizens born in France; as to class 1 there is no question; the international rule of law in case 2 is that a child born in one country, of parents belonging to another, has a right of election between the two, at the age of twenty-one, which is indicated by residence; such persons, who have elected the United States, are to be protected when visiting France; the Department sustains Mr. McLane's position in regard to the third class, that the presentation of a certificate of naturalization is a certification of such naturalization, putting it on the basis of a competent domestic court, certified as such by the Executive; such judgments are ubiquitous; the Department will cause inquiries to be made as to whether a judgment of naturalization was improvidently granted, and will not grant protection where one is shown to be fraudulent, but does not recognize the right of a foreign court or government to determine their validity; whether a	510

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364	Mr. Bayard to Mr. McLane (No. 298)—Continued.	1888. Feb. 15	naturalized citizen of the United States is liable to punishments on returning to France, for offenses committed before naturalization, not discussed here; Mr. Flourens to be informed that a decree of naturalization granted by the United States Government can not be impeached by that of France, and if American citizens are held for military service on the ground that they are *not* American citizens, they are to be released and damages paid for detention; importance of summary action in such cases to be presented; United States citizens accused of no crime not to be held in arrest a single day; such summary action always granted by the United States; no foreigner held to military duty in the United States when his release was requested; the few Americans in France not needed in her armies; such a course will exclude American merchants of French birth from buying goods in France; does not think that France will take a position conflicting with free principles, with the business interests and international comity of the two countries, and with the system on which the United States Government is based.	
365	Mr. McLane to Mr. Bayard (No. 551).	Feb. 16	Mails: The memorial of American merchants requesting that French mails be sent by the fastest line brought to the notice of the French Government; note from Mr. Flourens, that such is the policy of the French postal department, inclosed.	512
366	Mr. Bayard to Mr. McLane (No. 302).	Feb. 24	Case of J. Fruchier, naturalization, etc.: The position of this Government on the right of expatriation and the sufficiency of the judicial decree in proof of that fact summarized in answer to Mr. Stewart's letter in the case of John Fruchier; this case a good one to test the question in controversy; copies of correspondence with the French Government in relation to it to be sent the Department; Senator Stewart's letter to Mr. Bayard covering the letter of Governor Stevenson in reference to J. Fruchier's case, and Mr. Bayard's reply inclosed.	513
367	Same to same (No. 303).....	Feb. 24	Pork: Report on the pork question and course in the matter approved.	515
368	Mr. McLane to Mr. Bayard (No. 554).	Feb. 24	Protectorate of France over Johanna Island: Mr. Flourens states that France has assumed the protectorate of Johanna Island by virtue of two treaties of April 21, 1886, and October 15, 1887; translations of Mr. Flourens's note and of the treaties inclosed.	516
369	Mr. Bayard to Mr. McLane (No. 306).	Mar. 1	Submarine Cables Convention: The act of Congress in conformity with article 12 of the convention for the protection of submarine cables, and the President's ratification of the declaration and final protocol of the International Convention for the Protection of Submarine Cables inclosed for transmission to the French Government.	518
370	Mr. McLane to Mr. Bayard (No. 560).	Mar. 2	Military service in the French army by American citizens: Dispatch from the Department, No. 298, upon the subject of American citizens of French parentage summoned to do duty in France delivered to Mr. Flourens; the point pressed that an American citizen forced into the army on the supposition that he is not an American citizen, must be released and paid compensation for detention; two Americans in French army not detained on ground that they are not American, but that the claim of the legation is not sufficient proof; distinction may be made, but questions practically same; note to Mr. Flourens directed against the pretension that the American minister or the citizen must go before a court to establish American citizenship; doubts if the Department's No. 298 authorizes him to demand the immediate release of Arbios and Fruchier and compensation; fears Mr. Flourens may not think it does; Americans will not be released until they have	519

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		1888.		
370	Mr. McLane to Mr. Bayard (No. 560)—Continued.	Mar. 2	a judgment of a court; did not call Mr. Flourens's attention to the case of American-born citizens not of French parentage.	
371	Mr. Bayard to Mr. McLane (No. 308).	Mar. 6	Letters rogatory from courts of foreign countries are executed according to United States statutes, which are explained in the Department's circular of March 25, 1887, inclosed.	520
372	Mr. McLane to Mr. Bayard (No. 566).	Mar. 7	Case of J. Fruchier: Reply of Mr. Flourens to the demand for the release of Fruchier the same as reply made to demand for release of Arbios and others; Fruchier's a good test case; no answer received to note of January 11; did not make a new demand on presenting copy of Department's No. 298 to Mr. Flourens; not advisable to press the matte before receiving his answer; Mr. McLane to Mr. Flourens, May 5, and Mr. Flourens's reply of June 14 inclosed.	522
373	Same to same (No. 573).....	Mar. 23	Cases of Fruchier and Arbios: A personal note addressed to Mr. Flourens upon receiving Department's No. 302 informing him that instructions had been again given in the case of Fruchier, which was deemed a proper case to test the principle involved; stating that a personal call had been made the day before to request an answer to note of January 11.; intention not to discuss the matter until receipt of an answer from Mr. Flourens changed on account of the delay; the release of Arbios and Fruchier, pending the discussion of the principles involved, by the two Governments, urged in person; Mr. Flourens's promise to recommend their release, and anticipation of difficulty of effecting it, owing to war regulations, and his further promise to bring the matter before the ministers.	524
374	Same to same (No. 575).....	Mar. 29	Political situation in France and the Boulanger incident.	524
375	Same to same (No. 579).....	Apr. 6	..... do	526
376	Mr. Bayard to Mr. McLane (No. 320).	Apr. 6	Claim of B. F. Wilson against the sultan of Johanna: By the treaty of April 21, 1886, France is to arbitrate any dispute in regard to previous deeds and conventions between the sultan of Johanna and others; Dr. B. F. Wilson, an American citizen, claims damages of the sultan for violation of contract in regard to furnishing labor for a sugar plantation, destruction of property, and attempt to have him killed in 1882; the defense that Dr. Wilson aided Mohammed, who was in revolt; the charge denied, and the denial corroborated by Mohammed's principal officer; no reply received to a communication to the sultan on the subject; the case one coming under the treaty of 1886, if desired by Dr. Wilson, and the matter to be placed verbally before the French Government to know whether it will direct its resident to receive proofs in the case, and whether, having these proofs, it will arbitrate the claim, or other steps are needed for obtaining French arbitration.	527
377	Mr. McLane to Mr. Bayard (No. 584).	Apr. 16	Submarine Cables Convention: All powers, parties to the Convention for the Protection of Submarine Cables, have complied with Article XII of said convention, and it will go into operation May 1; French minister at Washington to give formal notification; list of powers who have adhered to the convention, and laws adopted by some of them in conformity with Article XII, inclosed.	528
378	Same to same (No. 588).....	Apr. 20	Political situation in France, and the Boulanger incident.	529
379	Same to same (No. 589).....	Apr. 20	Passport of Henry Aschè: Qualified passports issued to children of naturalized Americans residing abroad and not intending to reside in the United States; instruction asked; passport issued to Henry Aschè, born at Bassorah, 1866, who has never resided in the United States and has no intention of so doing; his father, a German, naturalized in 1854; few years later went to Bassorah, and died in 1870 in business there; residence in Turkey no evidence the father meant to abandon American citizenship, and his son, a United States citizen by our laws; had he a right to a passport?	529

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		1888.		
380	Mr. McLane to Mr. Bayard (No. 594).	Apr. 27	Cases of Fruchier, Arbois, and Gendrot: Mr. Goblet replies to the note of January 11, demanding the release of Arbois, Fruchier, and Gendrot, that the French Government does not question the validity of any act of naturalization of the United States Government, but has a right to determine whether the Frenchman naturalized abroad is under any obligation to France; that the discussion of this point is waived, and Arbois and Fruchier are released on furlough as a favor by the minister of war; that the minister of war and himself ready to consider any proposition to settle the question; the men technically subject to military service still; will communicate views to Department before addressing proposition for settlement of the question to Mr. Goblet; Mr. Goblet's note inclosed.	530
381	Mr. Bayard to Mr. McLane (No. 330).	Apr. 27	Letters rogatory, execution of, in New York for foreign courts: Extract from the code of New York as to manner of taking testimony in suits pending in foreign countries inclosed.	532
382	Mr. McLane to Mr. Bayard (No. 595).	Apr. 27	Political situation in France and the Boulanger incident.	533
383	Mr. Bayard to Mr. McLane (No. 335).	May 7	Passport of Henry Asché: Importance of the question of citizenship; a statement of the qualifications attached to the passport of Henry Asché desired; not understood how he can be an American citizen, yet subject to the claims of Turkey; no passport can certify a qualified citizenship; résumé of the facts in Asché's case; doubtful right of Asché's father to a passport, Asché himself not entitled; the question of what right he would have had to a passport had his father's and his residence in Turkey been continuous not considered; American citizenship abandoned by non-intention of returning to America; his passport to be recalled and canceled; doubtful cases to be submitted to the Department before issuing passports.	534
384	Mr. Vignaud to Mr. Bayard (No. 608).	May 24	Mr. Lalanne's application for a certificate of exemption from French military service: Lalanne born in France April 3, 1855; went to America on a French passport in 1874; declared his intention of becoming an American citizen in 1876, and obtained naturalization papers on the day of making the declaration; he voted at the Presidential election in 1884; original naturalization papers being lost, he obtained copies and went to France; summoned to perform military service, he applied for a certificate of exemption; informed that such a certificate could not be issued, but he must establish his nationality before a court; did not authenticate his certificate because he had been in the United States less than three years when obtained; as he could have obtained another, the Department's advice is requested; correspondence with Mr. Lalanne on the subject inclosed.	535
385	Same to same (No. 610).....	May 25	Passport of H. Asché: Mr. Asché's qualified passport, disapproved by the Department, was issued under paragraph 173, Consular Regulations 1881, in the qualified Form No. 11, as directed by the above paragraph; the form not canceled by the Department, not in new Consular Regulations, but they had just arrived and had not been examined: Mr. Asché requested to return passport: satisfied that he is not a bona fide citizen of the United States, but thought he was technically entitled to a passport.	538
386	Same to same (No. 615).....	May 30	Passport of H. Asché: Passport returned by Mr. Asché and canceled; he remarked that he was placed in the position of a man having no nationality, as he could not claim German or Turkish citizenship, whereas there was an American statute recognizing him as a citizen.	539

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		1888.		
387	Mr. Vignaud to Mr. Bayard (No. 617).	May 3	Passports: New supply of passport-application blanks telegraphed for; a large proportion of applicants naturalized American citizens, and the instructions of the Department enforcible in only a few cases; answers to following questions asked: 1. Is a passport to be refused to the wife or widow of a naturalized citizen who has not her husband's naturalization papers? 2. To a citizen who has lost or left at home his naturalization papers? 3. To one who can not state when he will return to the United States, or whether he will or not? Children born abroad whose parents were naturalized citizens residing permanently abroad not entitled to passport; discretion will be used in the similar case of the children of native Americans; German regulations require that foreigners visiting Germany by way of Alsace Lorraine after May 31 must have passports which are to be visaed at the German embassy in Paris; the cost of visaing raised from 1.90 to 12.50 francs; French passports made to wait ten or twelve days; foreign visaed at once.	539
388	Mr. Bayard to Mr. Vignaud (No. 341).	June 7	Passport to Henry Aschè: Paragraph 173 and Form 1 of the Consular Regulations of 1881 were superseded in 1885 by section 131 of Printed Personal Instructions to Diplomatic Officers which omits reference to qualified passports; paragraph 131 of Personal Instructions inclosed.	540
389	Same to same (No. 342).....	June 8	Passport of Mr. Lalanne: Particulars in the case of the application for a passport by Mr. Lalanne; Mr. Vignaud's letter to Mr. Lalanne directing him to establish his citizenship before a French court; Mr. Lalanne's naturalization illegal; Mr. Lalanne doubtful of the correctness of the transcript; he could have become a citizen in October, 1876; inquiries as to the correctness of the transcript will be made; naturalization illegal if transcript correct; only necessary to have informed Mr. Lalanne that the legation could not intervene, as his papers did not establish naturalization; statement of position of the French Government superfluous and liable to misconstruction; giving occasion for the supposition, indirectly or by implication, that the United States will permit the arrest of their citizens not charged with crime to be carefully avoided.	540
390	Same to same (No. 343).....	June 13	Passports: The wife or widow of a naturalized citizen, and a naturalized citizen, should first be required to produce the original certificate of naturalization or certified copy; cases enumerated in which parol proof of lost passport is admissible; passport to be refused to a naturalized citizen who can not state when or whether he will return to the United States; passports to be refused to children who have never been in the United States, whose parents are naturalized citizens permanently residing abroad, unless the passport is given for the purpose of assuming the duties of American citizenship; if the father's renunciation of citizenship precedes the birth of the child no passport can be issued.	542
391	Mr. Bayard to Mr. McLane (No. 344).	June 14	P. Jacob, military service in France: Correspondence relative to the case on file in the legation; facts in the case published in Foreign Relations for 1884; in view of the present aspect of the question of French-American citizens it is not deemed advisable to make the demand suggested by M. Ferry, but it is hoped Jacob's name, in view of the fact that he has served his term and no practical question remains, will be struck from the reserves; Mr Jacob renews his request that his name be erased from the French military rolls and his American citizenship recognized; Mr. Jacob's letter and the Department's reply inclosed.	543
392	Mr. Vignaud to Mr. Bayard (No. 628).	June 25	Passports: More than two hundred and fifty issued since May 25; German regulations require servants to have passports.	545

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393	Mr. Vignaud to Mr. Bayard (No. 629).	1888. June 25	Passport of Mr. Cipriani: Application for a passport for Mr. Cipriani supported by Consular Agent Damiani received from the United States consul at Marseilles; passport issued; copy of letter to Mr. Mason, United States consul, giving reasons for issuing it; Mr. Cipriani's application and copies of his note to Mr. McLane and Mr. Damiani's letter to the consulate at Marseilles inclosed.	545
394	Mr. Bayard to Mr. McLane (No. 350).	June 30	Naturalization, parol proof of: Instructions in No. 343 to be referred to in regard to parol proof of naturalization; record always to be produced and parol proof allowed in exceptional cases; every proper case of inability to produce the certificate of naturalization covered by 343; care to be used in issuing passports.	547
395	Mr. McLane to Mr. Bayard (No. 631).	July 2	Passports; parol proof of naturalization: Telegram refusing discretion in granting passports received; instructions as to whether par. 120, Art. XII, Dip. Per. Instrs. dispense with other proof than a passport from the Department. The practice to issue a new passport in place of one from the Department not two years old; difficulty of complying with conditions for parol proof laid down in 343; discrimination between naturalized and native-born citizens; many Americans without their certificates on account of disuse of passports, and can not procure them in time for their necessities; will observe instruction 343 in the matter.	547
396	Same to same (No. 633).....	July 6	Passport of Felix Poyard and children. Passport granted to Felix Poyard and children, who has resided in Bordeaux since 1860; fourth point of instruction No 343 strained and declaration to return vague; Poyard's son, aged seventeen, applies for a passport, and Department instructions as to granting are requested.	549
397	Mr. Bayard to Mr. McLane (No. 357).	July 11	Passport of Mr. Cipriani: Granting a passport to Mr. Cipriani approved; facts establishing his citizenship; the question not of his status, but of the form of proof of citizenship; no information of interference with Mr. Cipriani's rights; newspaper statements not understood.	549
398	Same to same (No. 358).....	July 16	Passport of Mr. Twyeffort: Letter of Mr. Twyeffort alleging the refusal of Mr. McLane to renew his passport issued in 1879 because of his inability to produce proof of naturalization, and the Department's reply inclosed.	550
399	Same to same (No. 359).....	July 20	Passport of Felix Poyard: French domicil with intent to remain a renunciation of American citizenship, and deprives of right to passport; minor children in such a case have less pretension to a passport. The applicant can establish his right by acts of citizenship.	551
400	Same to same (No. 360).....	July 20	Passports: No discrimination between native and naturalized citizens; the best proof always to be produced; affidavit and personal identification the best proof with natives; naturalization can be proved by the records of a court, and inspection of the record or a certified copy thereof the best and sole proof of the action of the court; exception when the original record is lost or destroyed; importance of the relation of protection assumed by government to a citizen; naturalization a judicial act, and must be proved like other judgments; the hardships more apparent than real; certificates easily and inexpensively procured; duplicates can be taken abroad or obtained in a fortnight by telegraphing from Europe; instructions can not be altered; Americans residing abroad can be opportunely informed that they must provide themselves with proofs of citizenship; the question whether a passport not two years old dispenses with other proof affirmatively answered in No. 358.	552

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401	Mr. McLane to Mr. Bayard (No. 645).	July 25	Passport of Max Hellman: A passport issued to Mr. Max Hellman, a naturalized citizen of the United States whose papers of naturalization were in New York, on his promise to produce them; Mr. Hellman well known to Mr. McLane and has passports heretofore given by the State Department and the legation at Paris.	553
402	Same to same (No. 651).....	July 30	Passport of Mr. Poyard and children: Concurs with the Department in its view that the fact should be established that the applicant for passport does not intend to abandon American citizenship; their general declaration accepted as to intention; Mr. Poyard's declaration to return as soon as he could as vague as any received, and passport would not have been issued except for the opinion that he would return and perform his duties as a citizen; No. 359 not understood to require specific designation of time of intended return, but intention of applicants will be carefully ascertained.	554
403	Same to same (No. 652).....	July 31	Passports: Will observe instructions Nos. 358 and 360 upon issuance of pasports; Russia the only country requiring passports until lately; case of Mr. Hellman; not respectful to press the question of exercise of discretion in granting passports, when the technical legal proof of naturalization can not be produced at the moment; did not need to be told what is strict legal proof; the class of cases in which discreion to be employed indicated in No. 631; might have mentioned the individuals who found themselves in Europe without their naturalization papers.	554
404	Mr. Bayard to Mr. McLane (No. 367).	Aug. 10	Passport of Max Hellman, who did not produce a certificate of naturalization, upon the strength of former passports granted by this Department and Mr. McLane's personal knowledge, is approved; formal proof dispensed with by personal knowledge of minister.	555
405	Mr. Adee to Mr. McLane (No. 370).	Aug. 15	Passports: The points and the exceptional case mentioned in the request for further discretion in the granting of passports covered by Department's recent instruction.	555
406	Mr. McLane to Mr. Bayard (No. 661).	Aug. 16	A. Jacob, military service of, in France: The attention of the French authorities again called to the case of Alfred Jacob. M. Goblet states that the military authorities will discharge Jacob as soon as he obtains permission from the French Government to assume American citizenship; no remarks made upon the reply, but an inquiry addressed to M. Goblet whether his Government held a Frenchman could not become an American citizen without being previously authorized to do so, and, if such was the case, how the authorization was to be procured. This inquiry made because the French pretension is so general as to be applicable to naturalized citizens of French origin as well as to those born in the United States of French parents; Mr. Goblet asked to agree upon some settlement of this question; note to Mr. Goblet on the case of Alfred Jacob, and Mr. Goblet's reply, inclosed.	556
407	Same to same (No. 665).....	Aug. 24	Political situation in France and the Boulanger incident.	557
408	Same to same (No. 684).....	Oct. 4	Registration of foreigners: Decree of the French Government requiring foreigners intending to reside permanently or for a length of time in France to register in fifteen days or a month, and furnish evidence of nationality; travelers exempted; difference between domicile and residence in France; difference made between foreigners resident and domiciled in France formerly great, now small, such as inability to teach a primary school, liability to summary expulsion and requirement of a bond in the case of residents and not of those domiciled; statement of nationality and birth to be supported by documentary proof, probably a passport; great number of applications for passports expected at the legation, and consequent embarrassment;	558

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408	Mr. McLane to Mr. Bayard (No. 684)—Continued.	Oct. 4	passports will be refused to those Americans who do not intend to return or who do not know whether they will or not, and probably to those who are uncertain when they will return; Department's attention called to these cases on account of serious consequences which may result; translation of the above decree inclosed.	
409	Same to same (No. 692).....	Oct. 19	Political: Revision of constitution; General Boulanger.	559
410	Mr. Bayard to Mr. McLane (No. 393).	Oct. 26	Passports of Mr. Jules Jacobs irregularly granted, as it appears that he was naturalized before he was of age; great care to be used in granting passports.	560
411	Same to same (No. 394).....	Oct. 29	Registration of foreigners: The Department understands the requirements in regard to registration of foreigners in France to have been ameliorated; no necessity of discussing questions proposed; passports not to be granted to those who have no intention of returning to the United States, but not to be refused to those who intend returning but have not fixed the day; the Department's instructions to be strictly observed; inquiries not to go further than necessary for issuance of passport; domicile not controvertible with residence.	561
412	Same to same (No. 395).....	Oct. 30	Passport of Stephen E. Heidenheimer: Naturalized apparently within less than five years after his arrival in the United States; went abroad immediately and never returned; passport improvidently issued; Mr. Heidenheimer seems to have no right to a passport; the case to be investigated and reported.	561
413	Mr. McLane to Mr. Bayard (No. 707).	Nov. 12	Passport of S. E. Heidenheimer: Legality of naturalization not called in question by Mr. Heidenheimer's declaration and confirmed by Department's passport; declaration of intention of return vague but sworn to; passport returned by Mr. Heidenheimer with promise to obtain evidence of the legality of his naturalization.	563
414	Same to same (No. 710)	Nov. 17	Passport of S. E. Heidenheimer: He admits that he was the Edward Heidenhiemer who came to the United States November, 1866; left the United States on account of his health, intending to return; can not explain the mistake in the time of his naturalization; employed in his father's house in New York; affirms that no fraud was intended, and his ignorance of law due to sickness at the time; passport held and Mr. Heidenheimer advised to apply to the court which granted his naturalization papers.	564
415	Mr. Bayard to Mr. McLane (No. 406).	Dec. 8	Passport of S. E. Heidenheimer: Mr. Heidenheimer not a citizen, and his passport to be canceled.	565

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416	Mr. Roustan to Mr. Bayard.	Dec. 20	Political: Resignation of M. Grèvy and election of M. Carnot President of the French Republic; good relations to be maintained with foreign governments; value of the friendship of the United States.	567
417	Mr. Bayard to Mr. Roustan.	Dec. 24	Political: Note received announcing the resignation of M. Grevy and election of M. Carnot to the Presidency; close relation and interest of the United States for France and their wishes for her prosperity.	567
418	Mr. Roustan to Mr. Bayard.	Apr. 26	Submarine cables convention: The international convention for the protection of submarine cables went into effect May 1; circular from the French Government announcing that all the powers signing the convention of March 14 had passed the requisite legislation inclosed.	568

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419	Mr. Coleman to Mr. Bayard (No. 496).	Aug. 25	Tonnage and navigation dues: The Department circular of July 9 communicated to the German Government; no discrimination in Germany against vessels from American ports; note to Count Berchem inclosed.	570
420	Same to same (No. 502).....	Sept. 12	Expulsion of Peter Mackeprang, a naturalized American citizen from Germany: Facts stated; Mr. Coleman declines to interfere because Mr. Mackeprang has formally applied for re-admission to German nationality; correspondence inclosed.	571
421	Mr. Bayard to Mr. Pendleton (telegram).	Oct. 11	Samoan affairs: The state of affairs in Samoa distressing; will be made worse by the continuance of war; Mr. Sewall instructed to preserve a strict neutrality; treatment of Samoans in accordance with treaty desired; the advisability of immediately electing a King and Vice-King as agreed in conference, and the issuance of instructions to representatives of treaty powers to favor such election, other matters being left for subsequent consideration, is to be suggested to the German Government.	574
422	Mr. Pendleton to Mr. Bayard (telegram).	Oct. 13	Samoan affairs: The Department's proposal submitted to Count Bismarck; telegram from German consul at Apia that all the important chiefs had assembled after notice and formally recognized Tamasese King; the islands quiet; German men-of-war to remain for moral effect; statements confirmed by telegram from the German commodore; Bismarck seemingly ignorant of an agreement in conference for the election of a King and Vice-King.	574
423	Same to same (No. 518).....	Oct. 13	Samoan affairs: Count Bismarck informed of contents of telegram of October 11, but telegram not read to him. He stated that the German consul had telegraphed the election of Tamasese to be King; that Malietoa maltreated Germans and war was made against him personally, not against his people; that Great Britain and the United States had acquiesced; that Malietoa was received and protected on board a German ship; that the conference in Washington had not reached a final conclusion; that the German Government desired to maintain the good *entente* between the powers; that he does not conceive the change of King can make any change in the relations or course of the Governments towards Samoa or each other; Germany is willing to listen to any suggestion Telegram from German consul of September 17, stating the election of Malietoa and peace in the island, and a confirmatory one of the 20th from the German commodore shown by Bismarck at morning interview; Department's proposal repeated; stress upon the conference agreement; the idea of a Vice-King new to the Count; he says the German Government is willing there should be such an officer; reiterates that the conference adjourned without definite results, adding that it is as well, as an opportunity is given of observing the new order of things, and the original threads could be taken up where they were left off; that there is no haste; felicitates Mr. Pendleton upon the anticipation by the Samoans of the proposition of the United States by the election of a King which had left nothing for the Governments to do in that direction.	575
424	Mr. Bayard to Mr. Pendleton (No. 257).	Oct. 20	Expulsion of Peter Mackeprang: Mr. Coleman's refusal to interfere in the case of the expulsion of Peter Mackeprang from Germany approved.	576
425	Mr. Pendleton to Mr. Bayard (No. 526).	Oct. 24	Samoan affairs: Extract from the Berliner Tageblatt, copying a Sydney newspaper as to the force of the German fleet in Australian waters, and another from the semi-official Nord-Deutschie Allgemeine Zeitung, giving the version of the foreign office of the transactions in Samoa, inclosed.	577

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No.	From and to whom.	Date.	Subject.	Page.
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426	Mr. Bayard to Mr. Pendleton (telegram).	Nov. 2	Samoan affairs: Mr. Sewall reports that Tamasese has taken control in Samoa, and left Americans without protection; Mr. Sewall instructed that his powers in regard to American citizens are not dependent on municipal government, and to maintain neutrality; Mr. Pendleton to inform the German Government that it is hoped Mr. Sewall will not be interfered with.	578
427	Mr. Coleman to Mr. Bayard (telegram).	Nov. 4	Samoan affairs: Count Bismarck acquiesces in Mr. Bayard's views as to the position of Mr. Sewall, and states that Germany will not interfere with him; her aid only given to preserve order, and treaties will be observed; Prince Bismarck regretted the difference between two friendly nations as to these unimportant islands, and suggested a dispatch be sent to that effect from the foreign office.	578
428	Mr. Pendleton to Mr. Bayard (No. 538).	Nov. 15	Arrest of Charles Schwalb, A. C. Postel, and Julius Postel, Americans, at Zurich, on request of authorities of Baden: Representations made to foreign office and reply of foreign office, men were suspected of complicity in a theft, but proceedings against them developed their innocence; regret of German authorities expressed; correspondence inclosed.	579
429	Mr. Bayard to Mr. Pendleton (telegram).	Nov. 15	Illness of the Crown Prince: The President expresses the sympathy of the people of the United States with the Emperor on account of the Crown Prince's illness.	581
430	Same to same (No. 265).....	Nov. 18	Arrest of Hans Jacobsen in the island of Alsen, charged with being a deserter from the German army: His release to be requested; letter of W. W. Morrow, with accompaniments, inclosed.	581
431	Mr. Pendleton to Mr. Bayard (No. 540).	Nov. 21	Illness of the Crown Prince of Germany: Sympathy of President expressed; correspondence with foreign office inclosed.	583
432	Same to same (No. 545).....	Dec. 1	Pork: Trichina among German hogs; translations from the Berlin Zeitung showing the prevalence of trichinosis in Germany from this source inclosed.	584
433	Same to same (No. 546).....	Dec. 1	Pork: Decree of Emperor prohibiting the importation of, from Denmark, Sweden, and Norway inclosed.	585
434	Same to same (No. 547).....	Dec. 3	Arrest and imprisonment of Hans Jacobsen on the charge of being a deserter from the German army: Facts stated; case one of desertion committed before emigration; correspondence inclosed.	586
435	Mr. Bayard to Mr. Pendleton (No. 274).	Dec. 20	Arrest and imprisonment of Hans Jacobsen: The action of the legation in not presenting to the German Government the case of Hans Jacobsen approved; provision made in the extradition treaty with Germany for the trial and punishment of a naturalized citizen of one country on his return to his native land for offenses committed before his departure; Jacobsen shown by papers before the Department to have deserted from the German army before coming to the United States; his case covered by the treaty.	589
436	Mr. Pendleton to Mr. Bayard (No. 555).	Dec. 26	Passport refused to Mr. Manny Ehrenbacher, a naturalized American, unless he consents to return to the United States for the purpose of residence; correspondence, inclosed.	589
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437	Same to same (No. 556).....	Jan. 10	Samoan affairs: German newspaper account of election of Tamasese as King and of other events occurring in Samoa, inclosed.	591
438	Mr. Bayard to Mr. Pendleton (No. 279).	Jan. 11	Passport of Mr. Ehrenbacher: The application of Manny Ehrenbacher for a passport should be passed upon in the United States in case he shall come to them.	593
439	Same to same (No. 280).....	Jan. 17	Samoan affairs: Communication of Prince von Bismarck to Baron von Zedtwitz complaining of the action of American consuls in Samoa as hostile to German interests; the Department disposed to avoid difficulties as evinced by the recall of Mr. Greenebaum; the Department without evidence of the acts of other consuls complained of; the action of the German consul at the landing of troops from the *Möwe*	594

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439	Mr. Bayard to Mr. Pendleton (No. 280)—Continued.	1888. Jan. 17	not in agreement with the Samoan Government or the municipal administration; the acts of the American consuls not proceeding from hostility to Germany; review of facts in support of this position; instability of the Samoan Government due not to the action of United States consuls, but the want of support from German consul; the agitation for annexation to neighboring British islands a cause of disturbance; efforts to establish a permanent government in Samoa not opposed by the United States; the efforts of the United States to preserve the independence of Samoa justified by instances of other islands cited; the treaty with Hawaii reciprocal, and no attempt made to interfere with that Government; grave doubts as to future relations of treaty powers in Samoa raised by Germany s action; the treaty giving control of that Government to Germany signed by Malietoa under compulsion in 1884; seizure by Dr. Stuebel of Malietoa's rights in the municipality of Apia, in 1885; the circumstances following Mr. Greenebaum's proclamation reviewed as evidence of the United States' desire to establish stable government in Samoa; conference in regard to Samoan affairs held in Washington, June–July, 1887, adjourned for consultation of representatives with their governments, because of the inability of the United States to accede to the proposals of Germany; the plans and propositions of Germany and the United States at the conference, and the position of Great Britain; surprise at the information that Germany had independently declared war against Malietoa "personally;" recapitulation of the circumstances attending the declaration of war against Malietoa and his overthrow; not possible to ignore Germany's knowledge of the acts for which war was declared prior to the meeting of the conference in Washington and silence in regard to them until after war had begun; instruction of Oct. 11, 1887, as to election of a King, etc., and reply of German minister declaring ignorance of any conference agreement and announcing the election of a King; similar proposal to the British Government withdrawn in consequence; the ignorance of the German Government not understood; the establishing of the new government in Samoa by the German consul not satisfying the condition of a free election and more objectionable than the German proposition at the conference; Baron von Zedwitz's complaint against the American consul and request that he be instructed to observe neutrality; his statement that the United States had not recognized the municipal government of Apia, and objection to its consul taking any part therein a surprise; such participation previously acknowledged by Germany; the United States not formally a party to the municipal government, but one by the action of its consul, and the government recognized by the Department; the municipal government declared in abeyance by Germany because the United States representative was a little late at a meeting, and Apia occupied by German naval forces at request of Tamasese on account of absence of regular government; the situation in Samoa due to fomentation of native dissensions by foreigners and the desire of those in charge of German interests to obtain personal and commercial advantages; the action of Germany, subsequent to the conference, without sufficient consideration to the United States; the government established not satisfactory and should be put on a more impartial basis; the "guaranties" referred to equivalent to German control the administration of the government better conducted by a treaty power, but	

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439	Mr. Bayard to Mr. Pendleton (No. 280)—Continued.	Jan. 17	independence liable to be destroyed; a strong government the object of Germany, an independent one that of the United States, which consequently, dissents from Germany's propositions; instructions to be communicated to German Government; Malietoa's complaint to Mr. Dawson, inclosed.	
440	Mr. Pendleton to Mr. Bayard (No. 573).	Jan. 30	Trichinosis in Germany: Two newspaper accounts of its outbreak and extent, inclosed.	609
441	Same to same (No. 574)	Jan. 30	Socialist law of Germany: Bill to amend law, inclosed.	609
442	Mr. Bayard to Mr. Pendleton (No. 248).	Jan. 30	Spielmarken: Inquiries to be made whether the German Government permits the manufacture of spielmarken, and facts reported to the Department; letter of the Secretary of the Treasury on the subject, inclosed.	611
443	Mr. Pendleton to Mr. Bayard (No. 575).	Feb. 4	Treaty of alliance of Oct. 7, 1879, between Germany and Austria-Hungary, inclosed.	611
444	Same to same (No. 578)	Feb. 7	Samoan affairs: Instruction No. 280 in regard to Samoan affairs handed to Count Bismarck.	613
445	Same to same (No. 583)	Feb. 20	Socialist law prolonged to September 30, 1890	613
446	Same to same (No. 584)	Feb. 2	Spielmarken: No general law in Germany prohibiting the manufacture of spielmarken; imitations of German money used as counters in card playing without objection; different view may be taken on inspection of the imitations of American coins; punishment provided by the laws for counterfiting coins, stamps, etc.; copies of the imitations requested; punishment of the manufacturers probable.	613
447	Same to same (No. 585)	Feb. 22	Passport application of Frank Kissel submitted to the Department for instruction: Difference between his certificate, which states that he had resided for three years previous to his coming of age in the United States, and his affidavit, which states that he arrived in the United States in 1882, at the age of twenty-seven, and was naturalized five years after, in 1887; the applicant denies the correctness of the certificate; advised to write for certified copies of his papers.	615
448	Same to same (No. 586)	Feb. 22	German army: Provisions of new law providing for the increase of, considered.	616
449	Mr. Bayard to Mr. Pendleton (telegram).	Mar. 9	Death of Emperor William: Sorrow of the people and Government of the United States for the death of the Emperor.	620
450	Mr. Pendleton to Mr. Bayard (No. 589).	Mar. 12	Death of Emperor William: Sympathy of President conveyed to foreign office; acknowledgment of foreign office, inclosed.	620
451	Same to same (No. 593)	Mar. 17	Accession of Frederick III: His address to German people and open letter to Prince Bismarck, inclosed.	621
452	Same to same (No. 595)	Mar. 20	Income tax levied on Mrs. Honey, wife of an American citizen, temporarily residing in Frankfort: Facts stated; minister thinks matter should be passed upon by the courts before diplomatic intervention is sought; correspondence inclosed.	623
453	Mr. Bayard to Mr. Pendleton (No. 300).	Mar. 30	Seizure by the German consul in Apia of a pilot-house built on land leased by a citizen of the United States: Facts stated; instructed to bring matter to attention of German Government and urge speedy settlement of difficulty; report from United States consul at Apia, inclosed.	627
454	Mr. Pendleton to Mr. Bayard (No. 597).	Apr. 2	Pork: Message of President to Congress recommending the exclusion of swine meat and the preparations thereof exported from Germany and France; comments of a German newspaper, inclosed.	629
455	Mr. Bayard to Mr. Pendleton (No. 303).	Apr. 2	Passport of Frank Kissel: Mr. Pendleton's dispatch, No. 585, forwarded to the probate judge of Montgomery County, by whom a correct certificate of naturalization was furnished Mr. Frank Kissel, with the statement that the error in the former certificate was due to the use of a wrong form.	630

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456	Mr. Bayard to Mr. Pendleton (No. 305).	1887. Apr. 6	The income tax assessed by the Prussian Government on the wife of Mr. Honey brought to the attention of the Department by a letter from him, March 14, 1887: Mr. Pendleton's course in accord with that of the Department; nothing more to be done; the decision of the courts to be awaited; correspondence with Mr. Honey, inclosed.	630
457	Same to same (No. 315).....	Apr. 28	Claim of Albert Bernhard *vs.* Germany for arrest and imprisonment in Alsace on charge of participation in a seditious conspiracy: Report on case by Third Assistant Secretary of State inclosed; facts given, and conclusion reached that Department would not be justified in intervening.	631
458	Mr. Coleman to Mr. Bayard (No. 622).	June 1	Alsace-Lorraine: Decree of Germany that passports bearing visa of German Embassy at Paris will be required of foreigners entering Alsace-Lorraine from France; visa will be furnished to all foreigners other than Frenchmen; object of measure is to discourage and restrict French intercourse with Alsace-Lorraine; decree and German newspaper article inclosed.	635
459	Mr. Bayard to Mr. Pendleton (telegram).	June 15	Death of Emperor Frederick III: The President desired expression to be made through the Foreign Office of the sympathy felt throughout the United States at the death of the Emperor.	637
460	Mr. Coleman to Mr. Bayard (No. 628).	June 18	Death of Emperor Frederick III: Sorrow universal throughout the Empire for the death of the Emperor; buried quietly at Potsdam this morning; note to Count Bismarck conveying the sympathy of the President and Count Bismarck's acknowledgment inclosed.	637
461	Mr. Bayard to Mr. Pendleton (No. 329).	June 19	Death of Emperor Frederick III: Resolution of House of Representatives expressing sorrow for death and sympathy with Germany inclosed.	639
462	Mr. Coleman to Mr. Bayard (No. 630).	June 20	Proclamations of William II to the army, navy, and people: The convoking in extraordinary session of the Reichstag and Landtag, and the three proclamations to the army, the navy, and the people the most important public acts of William II; translations of the proclamations inclosed.	639
463	Same to same (No. 631).....	June 22	Passport application of Charles Stein: Requests instructions in the case of the application of Mr. Stein for a passport; he holds a passport which states that he is liable to military duty, and has declared his intention of becoming an American citizen; he has never taken out his second papers.	641
464	Same to same (No. 635).....	July 2	Income tax on Mrs. Honey: Note to Count Bismarck to have Mrs. Honey's appeal from the income tax imposed on her conveyed to the Prussian minister of finance because of its preparation and signature by Consul-General Mueller, who can not with propriety address himself to the minister; he was Mrs. Honey's agent in corresponding with the local authorities, and familiar with the facts; the documents referred to by Mr. Mueller heretofore transmitted to the Department; correspondence with Mr. Mueller and Mr. Coleman's note to Count Bismarck inclosed.	642
465	Same to same (No. 638).....	July 5	Death of Emperor Frederick III: Notes to the imperial secretary of state for foreign affairs, transmitting resolution of sympathy for the death of Frederick III inclosed.	644
466	Mr. Bayard to Mr. Pendle- (No. 333).	July 7	Marriages of Americans abroad: Correspondence with Mr. Ketcham, M. C., as to the validity of marriages of Americans abroad, inclosed.	645
467	Mr. Bayard to Mr. Coleman (No. 334).	July 10	Passport application of C. Stein, who had declared his intention to become a citizen of the United States and applies for a passport; passports can be issued only to citizens, and not to a person who has simply declared his intention to become a citizen.	646
468	Mr. Coleman to Mr. Bayard (No. 639).	July 16	Death of Emperor Frederick III: Copy of note from Count Bismarck, expressing the thanks of the reigning Emperor for the resolution of condolence of the House of Representatives, inclosed.	647

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469	Mr. Bayard to Mr. Pendleton (No. 339).	July 18	Seizure by the German consul at Apia of a pilot-house on land leased by a citizen of the United States: Department agrees with German Government that the building, which was erected out of the municipal funds, should be treated as part of the assets of the late municipality; complaint of this Government related solely to question of title to the land.	648
470	Same to same (No. 341).....	July 19	Income-tax on Mrs. Honey: The transmission to the Prussian minister of the appeal in the case of S. R. Honey approved.	649
471	Mr. Coleman to Mr. Bayard (No. 645).	July 23	Marriages of Americans abroad: Correspondence of Mr. Bayard with Mr. Ketcham on marriages of Americans abroad received; the principle of conformity to the law of the place of celebration, laid down in Mr. Bayard's note, that adopted in Germany; no marriage valid by German law which is not concluded before the "Standesbeamter," and a fine imposed upon a minister who solemnizes a marriage not so concluded; translations of German statutes governing marriage inclosed.	649
472	Same to same (No. 656)	Aug. 13	Income-tax on Mrs. Honey discontinued, and amount collected to be refunded; the question of Mrs. Honey's liability to a communal tax to be referred to the Prussian minister of interior, and a further communication to be made on the subject; Mr. Honey's complaint understood to relate solely to the income tax; Mr. Honey notified of the decision; Mr. Hellwig to Mr. Pendleton, August 10, 1888, inclosed.	650
473	Same to same (No. 672)	Oct. 1	Samoan affairs: Little said by German newspapers of the disturbances in Samoa; nothing by the especial organ of the Chancellor; chiefly comments on the telegrams and editorial of the London Times; extracts from the Vossische Zeitung and the National Gazette; will report any further information concerning the attitude of the German Government; extracts from the London Times inclosed.	651
474	Same to same (No. 675)	Oct. 4	Income tax on Mrs. Honey: The communal tax discontinued; the state tax previously removed.	655
475	Same to same (No. 681)	Oct. 11	Military cases: Seven military cases favorably decided since November 8, 1887, and one unfinished at that date; three pending; the decrease in their number a cause of satisfaction; a report of all military cases requiring intervention since the above date inclosed.	656
476	Mr. Rives to Mr. Pendleton (No. 371).	Oct. 20	Income tax on Mrs. Honey: Satisfaction of the Department at the discontinuance of the income tax levied on Mrs. Honey, and the return of the amounts collected.	660
477	Mr. Coleman to Mr. Bayard (No. 690).	Nov. 9	Passport application of Solomon H. Ulmer for himself, a naturalized citizen of the United States, and his son, born in Germany; no apparent intention on Mr. Ulmer's part of returning to reside in the United States; correspondence with United States consul at Nuremberg in regard to the case inclosed.	660
478	Mr. Bayard to Mr. Coleman (No. 387).	Dec. 4	Passport application of Solomon H. Ulmer: By treaty with Bavaria naturalized citizens returning to their native country to reside permanently renounce their adopted citizenship, and a two years' residence is prima facie evidence of such renunciation; Mr. Ulmer not entitled to passport for himself and son, on account of thirty years' residence in Bavaria.	661

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479	Prince von Bismarck to Baron von Zedtwitz.	Nov. 18	Samoan affairs: Hostility to German interests shown by successive American consuls; the reason not understood; relations more friendly with Great Britain, who has more cause for jealousy; preponderance of German over American interests in Samoa; no attempt made to secure Germany advantages on this account; equal rights of nations in Samoa; no intention to alter relations of treaty powers; the assistance of the Secretary of State of the United States requested to investigate and redress the acts of American consuls; an account of proceedings in Samoa and letter of Mr. Sherwood to the Samoan secretary of state, covering a letter from Malietoa to the President of the United States, and a note of Mr. Sherwood's inclosed.	662
480	Baron von Zedtwitz to Mr. Bayard.	Nov. 19	Illness of the Crown Prince: Gratitude of the Emperor for the sympathy of the President and people of the United States in the illness of the Crown Prince.	667
481	Baron von Zedtwitz to Mr. Bayard.	Dec. 23	Jubilee art exhibition at Munich: Foreign artists and academies invited to take part in the jubilee art exhibition to be held at Munich from June 1 to October 31, 1888.	667
482	Baron von Zedtwitz to Mr. Rives.	Dec. 29	Regulations for the prevention of the introduction of infectious diseases at Corean treaty ports provisionally approved by representatives of treaty powers at Seoul; copy of the regulations inclosed.	668
483	Mr. Von Alvensleben to Mr. Bayard.	Jan. 24	Tonnage and navigation dues no greater for American vessels in German ports than for German vessels. Proclamation of the suspension of dues previously exacted from German ships in American ports, and restoration of the dues collected since the approval of the act of Congress of June 19, 1886, requested.	669
484	Mr. Bayard to Mr. Von Alvensleben.	Jan. 26	Tonnage and navigation dues: A proclamation will be issued by the President suspending the collection of tonnage dues on German vesssels.	670
485	Same to same.....	Jan. 30	Tonnage and navigation dues: Copy of the President's proclamation suspending the collection of tonnage dues on vessels from German ports in the ports of the United States inclosed.	671
486	Mr. von Alvensleben to Mr. Bayard.	Jan. 30	Jubilee Art Exhibition at Munich: An appropriation and free return transportation requested in behalf of the American artists who participated in the Munich Jubilee Art Exhibition.	672
487	Same to same.....	Feb. 25	Tonnage dues collected on the *Saale* on her arrival from Bremen. Proper instructions asked for the customs officers. Mr. Schwab's letter to Dr. Glavis, of February 15, and Treasury circular No. 19, of February 1, 1888, printed herewith.	673
488	Mr Bayard to Mr. von Alvensleben.	Feb. 28	Tonnage dues collected on the North German Line being investigated.	674
489	Mr. Bayard to Baron von Zedtwitz.	Mar. 8	Jubilee Art Exhibition: The invitation to take part in the International Art Exhibition to be held at Munich laid before Congress.	675
490	Baron von Zedtwitz to Mr. Bayard.	Mar. 10	Death of Emperor William: The thanks of the Imperial Government for the sympathy of the Government and people of the United States.	675
491	Mr. Bayard to Baron von Zedtwitz.	Mar. 19	Samoan affairs: Suggesting that each Government be at liberty to publish the joint secret protocols in relation to the Samoan question pending further consideration. An early reply requested, as the President is about to make a communication on the subject to Congress.	675
492	Baron von Zedtwitz to Mr. Bayard.	Mar. 24	Samoan affairs: The German Government unable to adopt the suggestion that each of the three treaty powers be at liberty to publish the memoranda of the proceedings of the Samoan conference. The protocols not suited for publication in view of the fruitlessness of the conferences.	675
493	Same to same.....	June 2	Seizure by the German consul in Apia of a pilot-house built on land leased by a citizen of the United States: Law governing case discussed and action of German consul sustained; matter, however, has been satisfactorily settled between the lessee and mortgagee; proposes that the	676

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493	Baron von Zedtwitz to Mr. Bayard—Continued.	June 2	pilot-house be turned over to Samoan Government until the establisment of a new communal administration. Correspondence inclosed.	
494	Same to same	June 4	Devices for the prevention of accidents: Foreign exhibitors invited to take part in the Exhibition of Devices for the Prevention of Accidents, to be held at Berlin during, April, May, and June, 1889.	682
495	Count von Arco-Valley to Mr. Bayard.	June 18	Death of Emperor Frederick III: The Emperor expresses his thanks for the resolution of sympathy of the House of Representatives upon the death Frederick III.	682
496	Same to same	July 11	Death of Emperor Frederick III: Gratitude of the Emperor for the sympathy of the President and people of the United States upon the death of his father.	683
497	Mr. Bayard to Count von Arco-Valley.	Aug. 17	Marriages between Chinese and foreigners in China: Memorandum on the validity of marriages in China between foreigners and Chinese subjects inclosed.	683

GREAT BRITAIN.

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498	Mr. Phelps to Mr. Bayard (No. 625).	Nov. 19	Tonnage and navigation dues: Copy of reply of Lord Salisbury to note written in conformity to Department's circular of July 9, 1887, inclosed.	684
499	Same to same (No. 628)	Nov. 26	Lekin on kerosene oil no longer collected privately at Hong-Kong; a communication from the foreign office in regard thereto inclosed.	685
500	Mr. Bayard to Mr. Phelps (No. 739).	Dec. 2	Sugar bounties conference: No objection to the attendance in a friendly way of an American representative at the sugar conference. Mr. White to be designated.	685
501	Mr. Phelps to Mr. Bayard (No. 643).	Dec. 17	Sugar conference attended by Mr. White, but no part taken in its discussions; adjournment of conference for the submission by the delegates to their respective Governments of conclusions reached. Mr. White's report to be sent soon. Note of December 9, 1887, from the foreign office and reply inclosed.	686
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502	Same to same (No. 651)	Jan. 4	Mails: Note from Lord Salisbury in regard to the transmission of mails between Europe and the United States inclosed.	688
503	Same to same (No. 652)	Jan. 7	Sugar bounties conference: Mr. White's report inclosed.	688
504	Mr. Bayard to Mr. Phelps (telegram).	Jan. 31	Fish, permission refused two American vessels at Halifax to sell: Requests that the British Government, pending a settlement of the fishery question, prevent the violation of international law by the collector of the port of Halifax, who has forbidden two American vessels, in that port for repairs, to sell their cargoes of fresh fish, which must otherwise be thrown overboard.	695
505	Same to same (telegram.)	Feb. 2	Fish, permission refused two American vessels at Halifax to sell: Satisfaction of the Department to be expressed that the collector of the port of Halifax has been instructed to allow the fish to be landed and sold on payment of duty.	696
506	Same to same (No. 780)	Feb. 3	Fish, permission refused two American vessels at Halifax to sell: Correspondence inclosed.	696
507	Mr. Phelps to Mr. Bayard (No. 673).	Feb. 4	Fish, permission refused two American vessels at Halifax to sell: Correspondence with Lord Salisbury in reference to the refusal of the Canadian authorities to allow them to land their cargoes of fresh fish inclosed.	697
508	Mr. Bayard to Mr. Phelps (No. 791).	Feb. 17	Boundary dispute between Great Britain and Venezuela: Notes from the Venezuelan minister stating that the legislature of Demarara has recently asserted a claim of British jurisdiction over the gold-mining district of Caratal, and that the governor of British Guiana has, in a decree, denied the validity of the grant by the Venezuelan Government for the construction of a railroad from Ciudad Bolivar to Guacipate, in that district, on the ground that it passes through British territory. No foundation apparent for	698

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508	Mr. Bayard to Mr. Phelps (No. 791)—Continued.	Feb. 17	the minister's note other than the article in the Financier of January 24. Friendly interest taken by the United States in the boundary question between the two Governments on the supposition that it was a fact of history and capable of arbitration. The claim now stated a cause for disquietude and the supposition that it is indefinite and not in accordance with historic evidence. No previous assertion of British authority over Caratal, and no appearance that the proposed railroad crosses British territory; the British boundary indefinite; the line of 1887 to the west of that of 1877. Guacipate west of both. The comparison to be made with the colonial office list for 1888; the gratification a settlement of this question will give the United States Government to be made known to Lord Salisbury. Reference to be made to the article in the Financier and apprehension expressed that a widening claim on the part of Great Britain may defeat a settlement; grave concern if there be no fixed limit to the British claim. The Venezuelan minister's note and map printed by the Venezuelan Government inclosed.	
509	Same to same (No. 798).....	Feb. 21	Boundary dispute between Great Britain and Venezuela: Copy of note to Mr. Olavarria on the subject and translation of his reply inclosed.	702
510	Same to same (No. 809).....	Mar. 1	Samoan affairs: Gurr *vs.* Marquardt; Department's views as to contest of jurisdiction between the German consul and the municipal government in the case of Gurr *vs.* Marquardt made unnecessary by information that the municipal government has been declared in abeyance, and propositions made by Germany for division of property; the matter to be brought to the notice of the British Government and inquiries made whether notice of Germany's withdrawal has been received and whether instructions in the matter have been sent to the British consul at Apia; dispatches Nos. 83 and 84 from Mr. Sewall and the Department's No. 42 to him inclosed.	704
511	Same to same (No. 830).....	Mar. 22	Sugar bounties conference: The arrival of a translation of the *procés-verbaux* awaited; note received from British minister urging the importance of the presence of an American delegate; the inability of the United States to take part, and the permission to Mr. White to attend the conference under the reserve communicated to the minister; if favorable answer is received a telegram will be sent enabling Mr. White to be instructed as to his powers; this Government unable to give the methods of sugar testing and of taxing sugar.	706
512	Same to same (telegram) ...	Mar. 27	Sugar bounties conference: Bounties opposed by the United States Government and no subsidies paid; revision of tariff pending and adjustment of rebates recommended by the Treasury; excise can not be established on domestic sugar, nor import duties abolished by treaty, nor the proposed convention signed; the right to conform to international arrangements by independent legislation reserved; British minister asked whether with this understanding the attendance of the American delegate is desired; instructions mailed 22d instant.	707
513	Mr. Phelps to Mr. Bayard (No. 709).	Mar. 31	Samoan affairs: Lord Salisbury's note communicating the views of the British Government in regard to, inclosed.	708
514	Mr. White to Mr. Bayard (No. 722).	Apr. 14	Sugar bounties conference: Two sittings of the conference; Article I of the draft of convention adopted with proposed changes; a committee appointed to report upon the method of procedure with regard to the remaining articles; translation of statement made to the conference by Mr. White, and copy of a telegram in the Times from Lille, stating that the French delegates are only authorized to sign the convention if all sugar-producing countries do, inclosed.	708

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515	Mr. White to Mr. Bayard (No. 726).	Apr. 21	Sugar bounties conference: Interest in the probable action of the United States; two sittings during the week; Brazil and Sweden not represented; Brazil will adhere; the sugar production of Sweden unimportant; the Belgian proposals not yet discussed, but the powers opposed to it; the Austro-Hungarian memorandum states that the convention will be without effect unless the United States signs; the opinion of Germany and France the same; a convention abolishing sugar bounties, unless the United States is a party, improbable unless the penal clause proposed by Spain is feasible.	710
516	Same to same (No. 729).....	Apr. 25	Sugar bounties conference: Requests the opinion of the proper officers of the Treasury upon the correctness of the calculation of the indirect bounty paid exporters of sugar by the United States Government, contained in the memorandum received from the British director of customs at Dublin; copy of the memorandum inclosed.	711
517	Mr. Bayard to Mr. White (No. 862).	Apr. 30	Christmas, Fanning, and Penrhyn Islands taken possession of in the name of Great Britain; the correspondence of 1879 in regard to the possessory right to Christmas Island to be recalled to the British minister; other questions to be reserved; the above correspondence inclosed.	712
518	Mr. White to Mr. Bayard (No. 742, bis.).	May 4	Samoan affairs: Copy of question asked in the House of Commons in regard to Samoan affairs, and Sir J. Furgusson's answer inclosed.	714
519	Same to same (No. 747).....	May 5	Sugar bounties conference: Question asked and Mr. White's answer in regard to the exportation of sugar from Louisiana and Sandwich Islands; committee appointed to consider Article II; the French representative states that the adhesion of the United States is absolutely necessary; the Spanish penal clause thought necessary by the delegates, if the United States is not a party; speech of Mr. Wilson in the United States Senate proposing sugar bounty commented on; M. Catusse's question and answer of Mr. White inclosed.	715
520	Same to same (No. 749).....	May 11	Samoan affairs: Copy of article from the Times on questions asked in the House of Commons in regard to Samoan affairs, and Sir J. Fergusson's answers inclosed.	716
521	Same to same (No. (752).....	May 14	Sugar bounties conference. The *protocol de clôture* signed by Germany, Austria-Hungary, Belgium, Denmark, Spain, France, Great Britain, Italy, Holland, and Russia; the protocal and annexed *projet de convention* inclosed.	717
522	Same to same (No. 754).....	May 18	Sugar bounties conference: Proceedings at the sittings from the 12th to the 22d inclusive; discussion in regard to the position of the United States; the creation of an international commission to see that the provisions of the convention are carried out; the Belgian, Spanish, and Dutch proposals rejected; American sugar excluded from England by the convention, unless the small indirect bounty is removed; opposition by the Liberals in England to the convention; laboring men favor it; doubtful whether the convention, as it is at present, will be signed; extract from the London Times giving the debates in the French Chamber inclosed.	721
523	Mr. Bayard to Mr. White (No. 877).	May 23	Samoan affairs: Dispatch from United States consul at Apia relative to the aggressive conduct of Germans in the matter of lands owned by Americans inclosed.	725
524	Mr. White to Mr. Bayard (No. 757).	May 23	Sugar bounties conference: Copy of letter from Mr. Neville Lubback, chairman West India committee, inclosed.	726
525	Same to same (No. 764).....	May 29	Christmas Island: Correspondence with Lord Salisbury in regard to the right of Great Britain to Christmas Island inclosed.	727
526	Same to same (No. 766).....	June 6	Samoan affairs: Extracts from the Times giving the speeches of Mr. McArthur, Sir James Fergusson, and Mr. Bryce in the House of Commons on Germany's action in Samoan inclosed.	728

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527	Mr. Bayard to Mr. Phelps (No. 895).	June 18	Sugar bounties conference: Mr. White's report sent to the Secretary of the Treasury, with request for his opinion as to the advisability of the adhesion of the United States to the *projet* of a convention; the conclusion adverse to adhesion; the position of the Department confirmed by this advice, and participation in the projected international agreement precluded; the inability of the United States to sign the *projet* to be communicated.	732
528	Mr. White to Mr. Bayard (No. 785).	June 20	Sugar bounties conference: The opinion of the delegates to the conference that the United States pay an indirect bounty; petition from the "Working-Men's National Association for the abolition of foreign sugar bounties," that the United States sign the convention; memoranda from Mr. Walpole and Mr. Bateman upon the American duties on sugar inclosed.	733
529	Mr. Phelps to Mr. Bayard (No. 790).	June 26	Sugar bounties conference: Extract from the Times, giving two questions asked and answered in the House of Commons in regard to the position of the United States inclosed.	737
530	Same to same (No. 795).....	July 7	Sugar bounties conference: Copies of note to Lord Salisbury on the subject of sugar bounties, and his lordship's answer inclosed.	737
531	Mr. Bayard to Mr. Phelps (No. 927).	July 20	Samoan affairs: Translation of treaty between the German consul at Apia and the adviser of the Tamasese government inclosed.	738
532	Same to same (No. 936).....	July 30	Maritime conference: Act providing for an international marine conference for securing greater safety for life and property at sea, and requesting the President to invite the other maritime powers to take part, passed by Congress; the special points enumerated; invitation extended in 1862 by Great Britain to other powers to adopt its regulations on the subject; thirty-four approved them; a revision made by Great Britain in 1877 approved by sixteen powers and put in operation in 1880; insufficiency of present regulations, especially in the matter of signaling in fogs and with flags; no international agreement with respect to protection from shipwreck; the destruction of dangerous derelicts important, as also warnings of storms, recently discovered dangers to navigation, etc., and uniform system of loading; action of Great Britain in regard to the latter subject; necessity of the adhesion of Great Britain to the conference; a cordial invitation to be extended to her; no question relating to trade and commerce to be discussed; no states to have more than one vote; this dispatch to be read to Lord Salisbury, and copy left with him if desired; the interest of the President in the purposes of the proposed conference to be made known.	740
533	Same to same (No. 937).....	July 30	Maritime conference: Invitations to maritime powers to meet in conference at Washington, April 17, 1889, for the purpose of securing safety for life and property at sea; reference to the load-line question admitted; hope that this question will be brought before the conference by the British representatives; the invitation to Great Britain more specific than those to the other powers.	742
534	Same to same (No. 942).....	Aug. 2	Samoan affairs: Note from the British chargé soliciting the Department's views on the German treaty with Samoa; the treaty provides that Germans in the municipality shall be subject to certain of the former regulations, changed into Samoan laws by the Samoan proclamation of January 18, and shall pay the taxes, etc., therein specified; Germans outside the municipality to pay the same tax as Samoans, not exceeding $5; that the regulations are to be enforced by Samoan judges, but appeal is to be had to the German consul at Apia, and the consular jurisdiction not be restricted; the British Government disposed to make a similar agreement; the clause in the British chargé's note, that British subjects are to be	743

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534	Mr. Bayard to Mr. Phelps (No. 942)—Continued.	Aug. 2	under the exclusive jurisdiction of the British consul, not understood; seems to refer to the enforcement of the regulations; inquiry to be made whether the British Government proposes to consider the question to whom the taxes, etc., are to be paid, and for what expended; the Department agrees that it is advisable to put the regulations in force, but will not yield its exclusive consular jurisdiction; before changing the regulations it is desired to know the opinion of the British Government as to the advisability of obtaining a guaranty in respect to the disposition of the revenues; Germany seems to think it unnecessary to exact guaranties which may be necessary for Great Britain and the United States.	
535	Mr. Phelps to Mr. Bayard (No. 823).	Sept. 11	Letter from the foreign office, announcing that Messrs. Taylor and Armistead, graduates of the United States Naval Academy, have obtained first and fifth places, respectively, at the Royal Naval College, Greenwich, inclosed.	744
536	Same to same (No. 827).....	Sept. 14	Sugar bounties conference: Transmits Mr. White's report upon the third session of the conference; the conference closed with the signature of a convention for the abolition of sugar bounties; the chief differences between the draught and convention as signed; letters on the subject from Mr. Webster, Sir Thomas Farrar, and Mr. Lubbock inclosed.	745
537	Mr. Bayard to Mr. Phelps (telegram).	Oct. 1	Samoan affairs: Tamasese reported overthrown by Mataafa, and the latter chosen King; to be ascertained whether the news has reached the foreign office; presumption that the choice of the Samoans will be respected by the treaty powers, in accordance with understanding; such the intention of the United States; similar instructions sent to Berlin.	752
538	Mr. Rives to Mr. Phelps (No. 973).	Oct. 9	Samoan affairs: Assurances received from the German Government that it will not interfere between native factions; spirit and resolution manifested by Samoans; dispatches of September 11 and 14, from United States consul at Apia inclosed.	752
539	Mr. Bayard to Mr. Phelps (No. 999).	Nov. 23	Protectorate of Great Britain over the Mosquito Reservation: Note from the British minister in Central America to the minister of foreign affairs of Nicaragua, complaining that a post-office had been established at Blue Fields, and that forts, etc., had been, or are to be, established in the reservation by the Nicaraguan Government; that such acts were an intervention in the domestic affairs of the reservation, and contrary to treaty; also referring to the boundary line. The last subject at present passed over; the other questions the subject of long correspondence between this Government and Great Britain, and of great importance; history of acts and declarations in regard to the Mosquito Reservation of the several powers concerned; the contention of the United States that all that territory belonged to Spain and passed to her revolted colonies; claim of Great Britain that they are an independent nation and her ally; treaty of 1860, by which Great Britain acknowledged the sovereignty of Nicaragua over the Mosquitos; the interpretation of that treaty by the Emperor of Austria; the Department is of opinion that the establishment of post-offices, forts, etc., are acts pertaining to the sovereignty of Nicaragua; the sovereignty of Nicaragua should exist in fact as well as in name, else there would be *imperium in imperio;* the right of Great Britain's intervention in the affairs of the Mosquito Indians and Nicaragua not admissible, and regarded as the assertion of a British protectorate in another form; this instruction to be read to Lord Salisbury.	759

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540	Sir L. S. Sackville West to Mr. Bayard.	Sept. 14	Passage of Lieutenant Schwatka, U. S. Army, through British territory on his reconnaissance in Alaska: No importance attached by the British Government, which would have probably given permission; a memorandum, calling attention to the fact, inclosed.	768
541	Same to same	Sept. 21	Seizure of the property of S. H. Davis & Co.: Approved minute of the privy council of Canada embodying a report of the minister of marine and fisheries, dealing with the statement of Messrs. S. H. Davis & Co., relative to the seizure of their property by Dominion officials, inclosed.	769
542	Mr. Bayard to Sir L. S. Sackville West.	Nov. 17	Discrimination against United States vessels in Canada: Collection of 3 cents per ton dues on vessels coming from the ports of Ontario suspended by the President January 31, 1885, on information that no dues were imposed on United States vessels in those ports; the United States consul at Kingston reports American vessels, less than 50 tons, taxed 50 cents for entrance, and the same for clearance, and vessels over 50 tons twice that amount, while Canadian vessels with coasting certificates, which cost nothing, are admitted free; this is a discrimination requiring a modification of the proclamation of January 31, 1885; desired to bring the matter to the attention of the Dominion authorities, that the duty may be removed before this step is taken; report of the United States consul at Kingston on the subject inclosed.	770
543	Sir L. S. Sackville West to Mr. Bayard.	Nov. 29	Sugar bounties conference: Requests to know whether any member of the United States legation can attend the sugar conference; France and Italy to be represented by their chargés; the conference to sit for some time.	771
544	Mr. Bayard to Sir L. S. Sackville West.	Dec. 2	Sugar bounties conference: No objection to authorizing a person to attend the sittings in a friendly way, without committing the United States to participation; Mr. White to be designated.	772
545	Sir L. S. Sackville West to Mr. Bayard.	Dec. 6	The *Golden Hind:* Regret that the United States Government should have so long remained unanswered in regard to the matter of the *Golden Hind;* copy of a report of the privy council of Canada and a letter to the deputy minister of fisheries from the master of the *F. E. Conrad* relative to the accusation that he had forbidden the *Golden Hind* to enter the Baie des Chaleurs to renew her supplies inclosed.	772
546	Same to same	Dec. 19	Immigration of Anthony Gallagher's family: Permission for immigration of family of Anthony Gallagher into the United States requested. Letter from the Darlington Poor Law Union inclosed.	773
547	Same to same (memorandum).	Dec. 23	The independence of the Sandwich Islands guaranteed by France and Great Britain in 1843: A similar declaration by other powers suggested and Germany to be asked to guaranty their neutrality and accessibility to ships of all nations.	774
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548	Mr. Bayard to Sir L. S. Sackville West.	Jan. 7	Immigration of A. Gallagher's family: The right of an emigrant to land depends upon facts presented to the collector of customs at the time of landing and can not be decided beforehand.	774
549	Sir L. S. Sackville West to Mr. Bayard.	Jan. 14	Sugar bounties conference: Hope of the British Government that the United States will be represented at the next meeting of the sugar conference and will become a party to the convention for the abolition of sugar bounties; copies of the procès-verbaux of the sugar conference held in London in 1887 inclosed.	775
550	Same to same	Feb. 2	Discrimination against United States vessels in Canada: Copy of minutes of the privy council of Canada embodying the report of the minister of customs upon the subject of fees charged on United States vessels in the ports of Ontario inclosed.	775

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551	Sir L. S. Sackville West to Mr. Bayard.	Feb. 5	Refusal of authorities at Halifax to permit the sale of fresh fish by two American vessels in distress: Permission granted American vessels in distress at Halifax to land part of their perishable cargo for bona fide repairs, without prejudice to the question of right.	779
552	Mr. Bayard to Sir L. S. Sackville West.	Feb. 7	Refusal by authorities at Halifax of permission to two American vessels in distress to sell their cargo of fresh fish: The British minister's note stating that permission had been given them to land part of the perishable cargo and make bona fide repairs, without prejudice to the question of right, received.	780
553	Sir L. S. Sackville West to Mr. Bayard.	Feb. 8	Samoan affairs: The United States Government reported to agree with the German that the case of Gurr vs. Marquardt is subject to German consular jurisdiction, and not within that of the municipal magistrate of Apia; the opinion of Great Britain different; requests to know whether the views of the United States remain the same after perusal of the correspondence in the case, which is inclosed.	780
554	Same to same.....	Feb. 14	Sailing of American-owned ships under the British flag: Requests information whether the United States can not prevent vessels sold to its citizens from sailing under the British flag; statement of facts in connection with the subject inclosed.	786
555	Mr. Bayard to Sir L. S. Sackville West.	Feb. 14	The *North Erin*: The misconduct of the captain of the *North Erin* while inside Cape Henry, Virginia, and within United States jurisdiction, when a deputy United States marshal attempted to serve process upon him, called to the attention of the British Government for its proper action in the case; a letter from the Attorney-General of the United States transmitting copy of a letter from the United States attorney at Norfolk, Va., inclosed.	787
556	Same to same.....	Feb. 15	Hawaiian treaty with the United States: Pleasure that it is perceived that the political sovereignty of Hawaii is not impaired by the Pearl Harbor concession. Important reciprocities contained in the Hawaiian treaties with the United States and the granting of any part of Hawaiian territory to another nation without consent of the United States inhibited; unnecessary for the United States to join in guarantying the neutrality of Hawaii or providing for the equal accessibility of all nations to existing ports.	788
557	Sir L. S. Sackville West to Mr. Bayard.	Mar. 6	Sugar bounties conference: Article VIII of the draught of convention annexed to the protocol of December 19, 1887, in reference to sugar bounties not understood. No intention of excluding the colonies mentioned in the article from participation in the conference; such colonies self-governing and always omitted in commercial treaties; expectation that all the British possessions named in the article will become parties to the agreement. Copy of Article VIII inclosed.	789
558	Mr. Bayard to Sir L. S. Sackville West.	Mar. 6	Sailing of American-owned ships under British flag: No law of the United States to prevent Americans from sailing British-built ships under the British flag.	789
559	Same to same.....	Mar. 19	Samoan affairs: Suggests that each Government be at liberty to publish the secret protocols of the Samoan conference; an early reply requested.	790
560	Sir L. S. Sackville West to Mr. Bayard.	Mar. 19	Lights in the Red Sea: The advice of the United States requested as to whether the proposals of the Turkish Government in regard to maintaining lights in the Red Sea and Persian Gulf should be accepted, and if not, information as to what lights their trade requires and what dues they will pay; the concession of the Porte for the maintenance of thirty lights inclosed.	790
561	Same to same.....	Mar. 19	Sugar bounties conference: The attendance of an American delegate at the sugar conference important; success of the conference impossible unless the United States be represented.	792
562	Same to same.....	Mar. 20	Sugar bounties conference: Documents referred to in the protocol of December 19, 1887, requested to be communicated to the British Government.	792

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563	Mr. Bayard to Sir L. S. Sackville West.	Mar. 21	Sugar bounties conference: Note stating the importance attached to the presence of a representative of the United States received; the objects of the conference; legislation pending in Congress in regard to the tax on sugar and the United States not ready to become a party to the conference; subsequent adhesion of states provided for by Article VII of the draught; Mr. White will be authorized to attend if he can do so without power to sign a convention or commit the United States to the results of the conference.	793
564	Same to same	Mar. 21	Sugar bounties conference: The United States Government unprepared to give the sugar tests, etc., referred to in the protocol of December 19, 1887.	794
565	Sir L. S. Sackville West to Mr. Bayard.	Mar. 22	Samoan affairs: The British Government of opinion that pending the re-establishment of the Samoan Conference its proceedings should be considered confidential.	794
566	Mr. Bayard to Sir L. S. Sackvillle West.	Mar. 24	Discrimination against United States vessels in Canada: The main argument of the Department's note in relation to fees exacted in the ports of Ontario misunderstood; no intention to state that entrance and clearance fees on American vessels in Welland canal are equivalent to the tonnage duty of 3-15 cents which was suspended by the President's proclamation of January 31, 1885, on vessels coming to the United States from Ontario; the fees charged on American vessels discriminatory; the minister of customs replies that the fees charged on Canadian vessels in United States lake ports are equivalent to the Canadian fees, but fails to show discrimination; discrimination in Canada apparently admitted by the minister of customs; no claim made that American vessels be admitted to the Canadian coasting trades, but that Canadian vessels, licensed for the coasting trade, are given advantages over American vessels in the rates between the two countries; this allegation not answered by proposing mutuality of coasting trades; the remedy in the Dominion act imposing the fees and empowering the governor of Canada to reduce or re-adjust them.	794
567	Same to same	Mar. 27	Aid to wrecked vessels: The President ready to issue the proclamation contemplated by the act of Congress of June 19, 1878, for reciprocal aid to vessels wrecked in waters between the United States and Canada as soon as notified of the British Government's readiness to accept the arrangement.	796
568	Sir L. S. Sackville West to Mr. Bayard.	Apr. 3	Sugar bounties conference: Pleasure that Mr. White should attend the sugar conference, and hopes that the United States will join the convention.	796
569	Mr. Bayard to Sir L. S. Sackville West.	Apr. 11	Lights in the Red Sea: The United States Government not in favor of accepting the proposals of the Porte in regard to establishing lights in the Red Sea; report of the chairman of the United States Light-House Board inclosed.	796
570	Sir L. S. Sackville West to Mr. Bayard.	Apr. 12	Canadian tariff: Copy of a minute of the privy council of Canada, authorizing the addition of fruits, plants, etc., to the free list, inclosed.	798
571	Same to same	Apr. 17	Pearl River Harbor: England's right by the treaty of 1851, with Hawaii, to anchor and refit her war ships in all Hawaiian harbors and rivers; no special advantages sought under this treaty; Hawaii and the United States reminded of this right in consequence of the treaty of 1884, concluded between these two countries.	799
572	Mr. Bayard to Sir L. S. Sackville West.	Apr. 19	Pearl River Harbor: The British minister's *note verbale* in relation to the stipulations of the convention of December 6, 1884, between the United States and Hawaii concerning Pearl River harbor received; the British minister referred to the Secretary of State's personal note of February 15, 1888, on the subject.	799

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573	Sir L. S. Sackville West to Mr. Bayard.	Apr. 20	Canadian tariff: Copy of a minute of the privy council of Canada recommending that, on account of errors in the proclamation of April 4, it be canceled and another issued, specifying the articles to be admitted free of duty after April 4, 1888, and a copy of the Canada Gazette containing the proclamation inclosed.	800
574	Same to same	Apr. 25	Seizure of United States fishing vessels: Copy of dispatch from the Governor-General of Canada, the British secretary of state, for the colonies, with a copy of the minute of the privy council on the seizure of the United States fishing vessels *Daniel J. Adams* and *Ella M. Doughty*, inclosed.	802
575	Same to same	May 2	Bait not refused to United States vessels by Newfoundland government, and a license for its purchase not necessary for such vessels.	803
576	Mr. Bayard to Sir L. S. Sackville West.	May 4	Bait, sale of, to American vessels in Canada. The British minister's note stating that the Newfoundland government has not forbidden the sale of bait to American vessels received; expression of satisfaction renewed.	803
577	Sir L. S. Sackville West to Mr. Bayard.	May 7	*North Erin*, Case of the: Copies of explanatory letters furnished by the owners of the British steamer *North Erin*, in reference to the complaint of United States authorities against her master, inclosed.	804
578	Same to same	May 21	Immigration of a body of Indians under the lead of William Duncan, from Metlakahtla, British Columbia, into Alaska; such immigration not supposed to be contrary to the laws of the United States.	808
579	Same to same	May 30	Fishing vessels of the United States in Canadian waters: Form of license to be issued by the Dominion government to United States fishing vessels under the *modus vivendi* inclosed.	808
580	Mr. Edwardes to Mr. Bayard.	June 7	Illegal sale of bait by United States vessels: Information received that American fishing vessels, in violation of the Newfoundland bait act, have purchased bait and sold it to French fishermen at St. Pierre, at the instigation of the United States consul at that place.	808
581	Mr. Bayard to Mr. Edwardes.	June 8	Illegal sale of bait alleged by American vessels to French fishermen, without a license at St. Pierre, at the instigation of the United States consul; the United States consular agent informed of the charge against him and enjoined to abstain from such action.	809
582	Same to same	June 8	Immigration of Indians from British Columbia not in violation of the United States laws; letter from the Secretary of the Treasury in regard to the matter inclosed.	809
583	Same to same	June 8	Illegal sale of bait by United States fishing vessels to French fishermen: The charge of instigating such action denied by the consular officer at St. Pierre.	810
584	Mr. Edwardes to Mr. Bayard.	June 9	Illegal sale of bait by United States vessels: Acknowledges Department's note giving information of instruction sent to United States consular agent at St. Pierre in the matter of the purchase of bait by United States vessels in the waters of Newfoundland without license and sale of it to French fishermen.	810
585	Same to same	June 9	Illegal sale of bait by United States vessels: Department's note received stating that the United States consular officer at St. Pierre denies instigating violation of bait laws by United States vessels.	810
586	Mr. Bayard to Mr. Edwardes.	June 22	The *Bridgewater* seized and detained 81 days by the authorities of Shelburne Nova Scotia; review of facts in the case; claim presented for $20,000; no redress in Canadian courts; compensation asked from the British Government; the law of the case not stated, as it is admitted that there was no warrant for the arrest.	811

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587	Mr. Bayard to Mr. Edwardes.	July 2	Lights in the Red Sea: Inexpedient to assent to the Porte's proposal for establishing lights in the Red Sea; only four necessary; the dues exessive; no provision made for the publication of accounts of light dues or their reduction; but the United States may assent to an arrangement for establishing these four.	812
588	Mr. Bayard to Sir L. S. Sackville West.	July 21	Discrimination against American vessels in Welland Canal: Reciprocal equality of treatment in the lake canals of the vessels of both countries contemplated by treaty of Washington; such equality exists in the United States.	813
589	Sir L. S. Sackville West to Mr. Bayard.	July 31	Discrimination against American vessels passing through Welland Canal brought to the attention of the Dominion government.	814
590	Mr. Herbert to Mr. Bayard.	Aug. 1	Illegal sale of bait by United States vessels: Mr. Justice Prowse's report on alleged breaches of the New Foundland bait act by American fishermen, inclosed.	814
591	Mr. Bayard to Sir L. S. Sackville West.	Aug. 4	Discrimination against the products of countries east of the Cape of Good Hope imported into Canada through the United States: Asks that the attention of the Canadian Government be given the matter; a memorial from American merchants on the subject, inclosed.	823
592	Sir L. S. Sackville West to Mr. Bayard.	Aug. 9	Discrimination against merchandise from the east of the Cape of Good Hope imported into Canada by way of the United States, brought to the notice of the Dominion Government.	824
593	Same to same.....	Aug. 13	Aid to wrecked vessels: Extract from a committee of the privy council upon the subject of rendering aid to vessels wrecked in waters between the United States and Canada, inclosed.	824
594	Same to same.....	Aug. 13	Discrimination against United States vessels in Welland Canal: Copy of an approved minute of the privy council of Canada relative to the tolls levied by the Dominion authorities on vessels passing through Welland Canal, inclosed.	824
595	Same to same.....	Aug. 25	Illegal recruitment of laborers in the New Hebrides: The British Government calls the Department's attention to the matter of the illegal recruitment of native laborers in the New Hebrides on board the *Mary Anderson*, owned by an American, Eugene Wilbur, and flying the British flag; Mr. Wilbur confesses that he recruited laborers on board a vessel owned by him and flying the British flag without authority; the vessel liable to forfeiture in this case; if the transfer was not complete and Mr. Wilbur in command, the offense one under the Pacific Islanders' protection act of 1872 and 1875; no proceedings taken against Mr. Wilbur, as he is an American and not within British dominions; sailing a British-built ship under a United States flag against American law; action requested to prevent such irregularities; the question of Americans flying their flag over British-built vessels believed to be of interest to the United States.	825
596	Mr. Bayard to Sir L. S. Sackville West.	Sept. 3	Illegal recruitment of laborers in the New Hebrides: Attention will be given the acts of Eugene Wilbur, said to be an American, commanding the *Mary Anderson*, flying the British flag at the time of such acts, and now that of the United States.	826
597	Lord Sackville to Mr. Bayard.	Oct. 10	Illegal recruiting of laborers in the New Hebrides: Extract from a dispatch from the high commissioner in the Western Pacific in reference to illegal recruiting of laborers on board the *Mary Anderson* in the New Hebrides, by request of Lord Salisbury, inclosed.	826
598	Mr. Herbert to Mr. Bayard.	Nov. 11	Aid to wrecked vessels: Standing proposition of the Canadian Government for reciprocal aid to vessels in distress in the inland coasting trade.	827

CORRESPONDENCE WITH THE LEGATION OF GREAT BRITAIN AT WASHINGTON—Continued.

No.	From and to whom.	Date.	Subject.	Page.
599	Mr. Bayard to Mr. Herbert..	1888. Nov. 11	Aid to wrecked vessels: Acknowledges the communication of the offer of the Canadian Government to make reciprocal arrangements for aid to vessels in the inland waters between the United States and Canada; it has been the subject of previous correspondence; surprise at the declaration that no partial arrangement of reciprocity will be permitted, in view of the act of Congress of the United States of June 19, 1878, providing for a reciprocal arrangement in all waters contiguous to the two countries; full participation in the coasting trade and towing business apparently a condition of Canada's participation in the arrangement; if this is not so, propositions in the line of the act of June 19, 1878, will be gladly received.	827

CORRESPONDENCE WITH THE LEGATION OF GUATEMALA AT WASHINGTON.

600	Mr. Lainfiesta to Mr. Bayard.	1887. Oct. 25	Protection to Guatemalan citizens by representatives of the United States: Asks that the consuls and ministers of the United States will extend to the citizens of Guatemala the same good offices they do to the citizens of Switzerland, and states that Guatemalan consuls, etc., will be instructed to do the same for Americans.	829
601	Mr. Bayard to Mr. Montufar.	Dec. 24	Protection to Guatemalan citizens by representatives of the United States: The United States will extend to Guatemalan citizens the same protection which is extended to Swiss citizens if desired; for Mr. Montufar's information as to the extent of this protection, Mr. Bayard's note to Major Kloss, of June 1, 1887, is inclosed.	830
602	Mr. Montufar to Mr. Bayard.	Dec. 27	Protection to Guatemalan citizens by representatives of the United States: Has received Mr. Bayard's communications stating how far United States diplomatic and consular officers extend protection to Swiss citizens, and offering to extend the same to those of Guatemala; friendship of Guatemala for the United States; suggests that a treaty of friendship and commerce may be arranged between the two countries, and that the matter be considered until he has had time to inform his Government of the offer of the United States.	830

HAWAII.

603	Mr. Merrill to Mr. Bayard (No. 138).	1887. Aug. 26	Financial: $1,500,000 of the $2,900,000 loan authorized has been borrowed; $1,264,699.26 netted to the Government; the Hawaiian Government considers the charges of the London syndicate too great, that 5 per cent. commission and 2 per cent. discount is sufficient; no more money to be borrowed in London; cable communication with North America; $20,000 appropriated for that purpose last session.	632
604	Same to same (No. 141).....	Sept. 19	Political: Election of the Legislature; native Hawaiians support the reform party; the race question not prominent; an extra session probable; business not affected.	833
605	Mr. Bayard to Mr. Merrill (No. 61).	Sept. 30	Oath required of foreign residents in Hawaii; the oath required of all nationalities and requisite for the enjoyment of political privileges; does not deprive Americans of their United States citizenship.	833
606	Mr. Merrill to Mr. Bayard (No. 148).	Oct. 15	Immigration: 13,517 immigrant laborers in Hawaii; 23 plantations prefer Japanese; 36 Portuguese and Chinese.	834
607	Same to same (No. 149)	Oct. 22	Supplementary convention with the United States ratified; note from the British minister protesting against its ratification as dangerous to Hawaiian independence.	834

HAWAII—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1888.		
608	Mr. Merrill to Mr. Bayard (No. 153).	Nov. 8	Political: Opening of the Legislature; speech of the King upon the renewal of the treaty of reciprocity with the United States; the speech of the King and reply of the Legislature, inclosed.	835
609	Same to same (No. 158)	Dec. 15	Veto power of the King: Resolution adopted by the Legislature that the veto of the King, not countersigned by a member of the cabinet, is unconstitutional; the opinion of the supreme court asked by the King; the decision of the justices will be supported; the resolution on the veto inclosed.	837
610	Same to same (No. 159)	Dec. 16	Supplementary convention with the United States approved by the Legislature; questions asked the ministry as to the statement made by the King in his speech, that article 2 of the convention is conterminous with the treaty of reciprocity, and their answers inclosed.	844
611	Same to same (No. 160)	Dec. 17	Submarine telegraph cables: Popular desire to connect the Hawaiian Islands with North America by cables; the advantages of such connections; the original resolution in favor of Mr. Coote, the later one, which is in favor of no particular person, inclosed.	847
		1888.		
612	Same to same (No. 161)	Jan. 7	Veto power of the King: The supreme court divided in their opinion; the King vetoes more bills; Mr. Dole, who is opposed to the King's power of veto, it is expected, will be made the fifth justice; adjournment of the legislature expected; the message of the King, accompanying the vetoed bills, inclosed.	849
613	Same to same (No. 168)	Feb. 10	Veto power of the King: The independent veto power of the King sustained by the supreme court; the decision quietly received by the country, no extra session expected; the decision of the supreme court inclosed.	852
614	Same to same (No. 169)	Feb. 13	Pearl River Harbor: Protest of the British minister against the concession based on the treaty between Great Britain and Hawaii, which mutually gives the right to enter all harbors, etc., which the ships of war of other nations are allowed to enter.	860
615	Same to same (No. 173)	Feb. 24	Pearl River Harbor: Correspondence between the British commissioner and the Hawaiian minister of foreign affairs, relative to the concession of Pearl River Harbor to the United States, inclosed.	861
616	Same to same (No. 174)	Feb. 24	Immigration of Chinese: General feeling against Chinese immigration; anti-Asiatic union organized to restrict Chinese and Japanese immigration and effect the expulsion of those in the islands who do not renew their contracts to work, and to prevent licenses being granted them for trade; the published regulations inclosed.	864
617	Same to same (No. 179)	Apr. 4	Christmas, Fanning, and Penrhyn Islands taken possession of by Great Britain; the British commissioner says the trade of these islands is insignificant, but they are valuable as coaling and telegraph stations.	865
618	Mr. Bayard to Mr. Merrill (No. 79).	Apr. 20	Pearl River Harbor: Memorandum of interview with the British minister in regard to the treaty of 1844 between Great Britain and France, by which they mutually agree to promote the neutrality of Hawaii, and the advisability of the United States joining in the guaranty, with other correspondence with the British minister in regard to the subject, inclosed.	865
619	Same to same (No. 80)	May 2	Christmas Island: The dispatch announcing the taking possession of Christmas and other Pacific islands by the commander of H. B. M.'s ship *Caroline* received; copy of correspondence with the British minister in regard to these islands in 1879 inclosed; further information requested.	866
620	Mr. Merrill to Mr. Bayard (No. 196).	July 24	Inter-island submarine telegraph cable authorized by act of the Hawaiian Government, $25,000 appropriated; Mr. Bartholomew, the contractor, in the United States arranging for its construction; favorable prospect for its completion; the act inclosed.	866

HAWAII—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1887.		
621	Mr. Merrill to Mr. Bayard (No. 197).	July 24	Exclusion of Chinese: Copy of an act limiting the time within which permits for Chinese to enter the Hawaiian Islands may be used inclosed.	863
622	Same to same (No. 201)	Aug. 25	Exclusion of Chinese: The proposed amendment to the Hawaiian constitution, giving the legislature power to restrict the employment and immigration of Chinese, will probably be supported by a majority of the present legislature; the question to be decided two years hence by the new legislature; the bill requiring laborers to procure a license reported adversely; the report of the special committee on the Chinese question and the proposed amendment inclosed.	868
623	Same to same (No. 204)	Sept. 11	Exclusion of Chinese: Amendment to the Hawaiian Chinese immigration act of 1887 inclosed.	871
624	Same to same (No. 211)	Sept. 29	Cable to British America: Protest of the British Government against granting the exclusive right to lay such a cable; reply of the Hawaiian Government that such a grant is within its right as a state; improbability of Mr. Coote fulfilling the requirements of the contract; a cable to the United States favored; enterprises of English capitalists in the Sandwich Islands; British influence will be increased by a steam-ship line and cable to British America; the beneficial effect of direct communication with the United States.	873
625	Same to same (No. 213)	Oct. 6	Cook's Islands or Harvey Archipelago: Cruise of H. B. M.'s ship *Caroline* to take possession of or establish a protectorate over these islands at the request, as is claimed, of the authorities of Raratonga.	875

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		1887.		
626	Mr. Thompson to Mr. Bayard (No. 153).	Nov. 14	Caisse d'amortissement bonds: Laws passed by the National Assembly, (1) establishing a new treasury service; (2) substituting new for old paper money; (3) converting the exterior debt and consolidating the floating debt; and (4) regulating the interior debt (caisse d'amortissement) and the back floating debt; last two laws affecting American citizens; the value of the bonds reduced 20 per cent. and the interest 1 per cent; copy of the fourth law, and letters of Mr. Thompson to the minister of foreign affairs setting forth its injustice to American bond holders inclosed.	877
627	Same to same (No. 155)	Nov. 26	Caisse d'amortissement bonds: An arrangement effected by which the bonds of Americans at the legation are paid one year's interest, the three months and fifteen days' interest and face value of the bonds to be exchanged for new ones; correspondence with the Haytian minister for foreign affairs inclosed.	881
628	Same to same (No. 161).....	Dec. 24	Submarine cable between the Mole St. Nicholas and Santiago de Cuba to be commenced by Christmas; translation of law authorizing it inclosed.	883
		1888.		
629	Same to same (telegram)....	May 26	Political: Revolution imminent; send war vessel.	884
630	Same to same (No. 181).....	May 26	Political: Disturbances in Port au Prince; the city declared in a state of siege; a United States war ship requested to be sent; the ministers offer to act as bondsmen of Légitime's word; copy of letter of Senator Légitime to Mr. Thompson inclosed.	884
631	Same to same (No. 185).....	June 6	Political: Arrival of the *Yantic* and Her Britannic Majesty's ships *Tourmaline* and *Wrangler*; departure of the former; Senator Légitime sent to Jamaica, Deputy Manigat to Santiago de Cuba; $5,000 to defray expenses accepted from the Government by Manigat; refused by Légitime; quiet restored.	887

HAYTI—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1887.		
632	Mr. Thompson to Mr. Bayard (No. 186).	June 11	Political: President Salomon said to favor Deputy Manigat as his successor; interview with Salomon; the situation in Hayti; the return of the *Yantic* expected; Her Britannic Majesty's ship *Ready* to relieve the *Wrangler;* the speech of President Salomon; article from La Vérité on the situation and letter of Senator Légitime to the Courrier d'Haïti inclosed.	887
633	Mr. Adee to Mr. Thompson (No. 107).	June 11	Political: The *Yantic* sent to Port au Prince; reports no apprehension of disturbance; a confirmation of the report hoped for.	891
634	Mr. Thompson to Mr. Bayard.	June 11	Political: Asylum at the American legation asked by C. Fouchard, Haytian secretary of treasury; asylum asked by Brutus St. Victor of the French minister; Légitime to have been attacked on the 24th ultimo.	892
635	Same to same (No. 188).....	June 16	Political: Extract from the Le Moniteur correcting the La Vérité's report of Salomon's speech and an article from the Courrier d'Haïti on the situation inclosed.	892
636	Same to same (No. 189).....	June 19	Political: Arrival and departure of the French ship *Du Couëdic*, and the *Bison* expected; Her Majesty's ship *Wrangler* relieved by the *Ready.*	895
637	Mr. Bayard to Mr. Thompson (No. 110).	June 21	Political: The Department does not understand how Mr. Thompson could act as bondsman of the word of Légitime.	895
638	Mr. Thompson to Mr. Bayard (No. 191).	July 2	Political: General Jeanty's resignation accepted and General Laforest appointed to command the arrondisement of Port au Prince and he succeeded as commander of the place by General Molière; General Duplessis appointed general of the port; translation of order of the day inclosed.	896
639	Same to same (No. 192).....	July 8	Political: Incendiarism in Port au Prince; Salomon accuses foreigners; a ship of war requested; arrests reported.	897
640	Same to same (telegram)....	July 9	Political: Send war vessels; political incendiarism; situation critical.	898
641	Same to same (No. 193).....	July 9	Political incendiarism: Panic in the city; most of the cargo of the *Atlas* returned; a man, captured while firing a house, to be shot.	898
642	Mr. Bayard to Mr. Thompson (telegram).	July 11	Political: A war vessel can not be sent unless particulars of urgency are furnished.	899
643	Mr. Thompson to Mr. Bayard (No. 194).	July 16	Political incendiarism: A house opposite to the legation burned; Romulus Romain, accused of setting fire to a house, shot; discontent with President Salomon; the dismissal of his private secretary demanded; indications of general discontent.	899
644	Mr. Bayard to Mr. Thompson (No. 114).	July 16	Political: Repeatedly sending war ships indicative of distrust of the Haytian Government; unwillingness to send ships to the West Indies during the yellow-fever season; none will be sent unless particulars of urgency are furnished.	900
645	Mr. Thompson to Mr. Bayard (No. 196).	July 21	Political: Three British, one French, and one Dutch man-of-war in the harbor; telegram refusing to send ship received; desire expressed by all for the presence of a United States vessel.	901
646	Mr. Bayard to Mr. Thompson (No. 115).	July 31	Political: Dispatch reporting disturbances in Hayti received; non-interference in Hayti's internal affairs approved.	901
647	Same to same (No. 119).....	Aug. 2	Political: The Secretary of the Navy unwilling to send a ship unless absolute necessity requires it, which does not seem to be the case.	901
648	Mr. Thompson to Mr. Bayard (telegram).	Aug. 10	Political: Urgent and immediate need of two ships of war.	902
649	Same to same (No. 199).....	Aug. 11	Political incendiarism: Two hundred and fifty thousand dollars given to the sufferers from the fires by the Government; claim presented by N. B. Walker, a United States citizen, for the destruction of a soap factory, through the British consul-general; reply of the Haytian Government; the French, English, and Spanish representatives said to be preparing to present claims for losses by the fires on the ground that the city was under martial law; the law passed for the aid of the sufferers inclosed.	902
650	Mr. Adee to Mr. Thompson (telegram).	Aug. 16	Political: War vessel sent.....	904

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No.	From and to whom.	Date.	Subject.	Page.
		1888.		
651	Mr. Bayard to Mr. Thompson (No. 120).	Aug. 16	Political: The *Galena* ordered to Hayti; letter of Secretary of the Navy inclosed.	904
652	Mr. Thompson to Mr. Bayard (No. 201).	Aug. 18	Political: Revolution at Cape Haytien; abdication of President Salomon; return of Légitime; Thélémaque expected; dispatch from United States consular agent at Gonaïves, proclamation of Boisrond Canal, letter of President Salomon to Mr. Thompson, two dispatches from United States consul at Cape Haytien, declaration of General Thélémaque, proclamation of the revolutionary committee of Cape Haytien, order of the day proclaimed by General Thélémaque, order of the day proclaimed by the revolutionary committee, letter of Boisrond Canal to Mr. Thompson and reply inclosed.	905
653	Same to same (No. 204).....	Aug. 25	Political: Attempt of the French minister to stop Thélémaque from marching to Port au Prince; feeling between the North and the South; a provisional government formed.	916
654	Mr. Bayard to Mr. Thompson (No. 122).	Aug. 30	Political incendiarism, No. 199, announcing, received; the matter will be considered when a case is presented.	917
655	Mr. Thompson to Mr. Bayard (No. 205).	Sept. 5	Political: The new ministry; the indications in favor of the election of the northern candidate, Thélémaque, for the presidency; arrival of the *Galena*.	917
656	Same to same (No. 206).....	Sept. 6	Sanitary: Refusal to sign a circular-letter of the French minister to the Haytian Government stating that clean bills of health will not be given to vessels unless troops are removed from the city; will not enter into a contract to give clean bills of health if pestilence prevails; the circular a political move; the fever not spreading.	918
657	Same to same (No. 207).....	Sept. 5	Political: Official call on the members of the provisional government by Mr. Thompson, the commander, and three officers of the *Galena*; the call not returned, owing to the *Galena's* departure.	918
658	Same to same (No. 208).....	Sept. 8	Sanitary: Interview of the diplomatic corps with the provisional government; vessels to be advised to lie further from the wharves; a sanitary commission appointed; the few cases of fever isolated, and clean bills of health given.	919
659	Mr. Bayard to Mr. Thompson (No. 123).	Sept. 21	Political: Nos. 204 and 205 received; pleased at the orderly course of events.	920
660	Same to same (No. 124).....	Sept. 22	Sanitary: The circular-letter of the French minister that clean bills of health would be refused if the troops were not removed from Port au Prince; Mr. Thompson's statement that by signing he would have been obliged to give clean bills of health in all cases not understood; the bill of health should depend upon the condition of the port at the time of granting; suspicious cases of fever at Port au Prince reported to the health officers.	920
661	Same to same (No. 125).....	Sept. 24	Sanitary: Interview with the provisional government, with a view to the improvement of the sanitary condition of Port au Prince approved.	921
662	Same to same (No. 126).....	Sept. 24	Political: Copies of letter from the Secretary of the Treasury covering Commander Chester's report on Haytian affairs, and Department's reply, inclosed.	921
663	Mr. Rives to Mr. Thompson (No. 128).	Oct. 9	Political: Telegram announcing the death of Thélémaque communicated to the Navy Department, with the request that a vessel be sent to Hayti; no vessel available, but one will be sent as soon as possible.	924
664	Mr. Thompson to Mr. Bayard (No. 212).	Oct. 16	Political: Conflict in Port au Prince resulting in the death of General Thélémaque; amnesty proclaimed; resignations of the ministers of interior, and of agriculture and police; revolt in the north, and blockade declared against Cape Haytian, Gonaïves, and St. Marc; correspondence with Légitime and his protestation inclosed.	924
665	Same to same (No. 213).....	Oct. 17	Political: General Légitime elected "chief of the executive power;" civil war imminent; General Légitime's letter announcing his election inclosed.	930

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No.	From and to whom.	Date.	Subject.	Page.
		1888.		
666	Mr. Thompson to Mr. Bayard (No. 214).	Oct. 18	Political: Charge of attempted bribery against the French representative in Hayti; odium cast on all; translation of a deposition published in the Trait d'Union on the subject inclosed.	931
667	Same to same (No. 217).....	Oct. 29	Seizure of the *Haytien Republic* and the *William Jones:* The *Haytien Republic* seized when leaving St. Marc; brought to Port au Prince by the *Dessalines;* statement of the captain; the landing of her passengers at a port not blockaded, a salute to the American flag, and indemnity for the vessel's detention demanded; Légitime's adherents in the minority; Americans in danger; war vessel telegraphed for; machinery taken out and the vessel taken into the inner harbor; note to the foreign office not answered; the blockade not effective; Mole St. Nicholas, Port de Paix, and Jacmel declared blockaded; the French vessel *Bison* in the harbor; the *William Jones,* with a perishable cargo bound for Gonaïves from Boston, seized and brought to Port au Prince; a ship of war asked; copies of notes from Mr. Piquant and two notes to him inclosed.	932
668	Mr. Bayard to Mr. Thompson (telegram).	Oct. 29	The seizure of the *Haytien Republic* and *William Jones,* protest to be made against.	936
669	Mr. Rives to Mr. Thompson (No. 56).	Oct. 31	Right of asylum: Consul Goutier's mistake in denying the right of asylum in consulates to political refugees corrected; correspondence with Mr. Goutier inclosed.	936
670	Same to same (No. 130).....	Nov. 2	Political: Mr. Goutier rebuked for interfering in Haytian affairs by joining with other consuls in the suggestion that Légitime withdraw as candidate for President of Hayti; copy of instruction to him inclosed.	940
671	Mr. Thompson to Mr. Bayard (No. 218).	Nov. 3	Seizure of the *Haytien Republic:* The passengers leave the vessel; the vessel condemned to confiscation and her owners to pay $50,000; Captain Compton advised not to leave his vessels until forced; copy of note to Mr. Piquant inclosed.	941
672	Same to same (No. 219).....	Nov. 6	Seizure of the *Haytien Republic* and *William Jones:* Arrival of the *Boston;* the case of the seized vessels being considered with Captain Ramsey.	942
673	Mr. Bayard to Mr. Thompson (telegram).	Nov. 10	Political: Taking sides in domestic strifes to be avoided and the commander of the *Boston* to be freely consulted with.	942
674	Mr. Thompson to Mr. Bayard (No. 132).	Nov. 15	Seizure of the *Haytien Republic* and *William Jones:* Details will be sent by the *Boston,* which leaves the 16th.	942
675	Mr. Bayard to Mr. Thompson (No. 132).	Nov. 15	Seizure of the *Haytien Republic* and *William Jones:* No. 217, announcing, received; telegram of the 10th instant confirmed.	943
676	Same to same (No. 133).....	Nov. 16	Political: Recognition of General Légitime's government deferred until it shall be firmly established; position of the United States as defined in instruction to United States representatives at Caracas in 1863; intercourse to be with the *de facto* controlling party, but no recognition implied thereby.	943
677	Mr. Thompson to Mr. Bayard (No. 221).	Nov. 16	Seizure of the *William Jones:* The vessel released, as she was not legally notified of the blockade; was ordered to Port au Prince and detained twenty days instead of being allowed to go to another port; indemnity of $10,000 paid Captain Collins and her cargo exempted from duty.	944
678	Same to same (No. 222).....	Nov. 17	Seizure of the *Haytien Republic:* The case to be referred to the Department for decision; correspondence with Mr. Margron; Mr. Metzger's protest and letter to M. Leon, and decision of the prize-court on his petition for a delay, inclosed.	945
679	Mr. Thompson to Mr. Rives (No. 116).	Nov. 19	Seizure of the *Haytien Republic:* The crew sent to the United States on account of the death of one of them; Captain Compton will remain; copy of correspondence with Captain Compton and list of seamen inclosed.	958
680	Mr. Bayard to Mr. Thompson (No. 134).	Nov. 20	Seizure of the *William Jones:* Letter from Mr. Haskins in regard to, inclosed.	960

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No.	From and to whom.	Date.	Subject.	Page.
		1888.		
681	Mr. Thompson to Mr. Bayard (No. 223).	Nov. 24	Refusal of the authorities at Port au Prince to give a clearance to the *Winnie Lowry* to Port de Paix on the 25th; blockade of the port declared on the 26th; the vessel sails in ballast for New York; instructions requested; copy of the protest of the master inclosed.	961
682	Same to same (No. 225).....	Nov. 24	Seizure of the *Haytien Republic:* Arguments against the seizure not refuted; the vessel had a right to take arms to Hayti, but did not; to be guilty of contraband traffic she must be caught *in delicto;* forcing the blockade said to be of secondary importance, but the only charge; the testimony worthless; Mr. Solon Menos not subpœnaed, and only appeared to bring in the letter given him by the French minister; Légitime fears that to yield would be to appear weak to his opponents; documents on which the prize court based its decision inclosed.	962
683	Same to same (No. 226).....	Nov. 24	Political: Expedition undertaken by the Catholic archbishop, French minister, and Mr. Margron to the north of Hayti, for the purpose of effecting peace, without avail; Mr. Thompson declines to go with the others; stringent measures to be taken; translation of note sent to the committee of Cape Haytien and their reply, and the French minister's note to M. Reine and his reply inclosed.	977
684	Same to same (No. 227).....	Nov. 25	Refusal of authorities at Port au Prince to clear the *Maggie Abbott* for Port de Paix on the day the blockade of that port was voted: Protest of the captain, McIntosh, against, inclosed.	980
685	Same to same (No. 228).....	Nov. 26	Refusal of the authorities of Port au Prince to clear the *Julia Fowler* for Gonaïves: Protest of Captain Parker against, inclosed.	981
686	Same to same (No. 235).....	Nov. 26	Political: Interference will be strictly avoided, as directed in Department's No. 132 and telegram of the 10th instant.	982
687	Mr. Bayard to Mr. Thompson (No. 135).	Nov. 27	Seizure of the *Haytien Republic:* No. 218, reporting the decision of the prize court and protest against it, received; protest approved.	982
688	Same to same (No. 136).....	Nov. 27	Yellow fever on the *Boston:* No. 220, announcing her departure, received.	983
689	Same to same (No. 137).....	Nov. 30	Seizure of the *Haytien Republic* illegal; discussion to be avoided; the expectation of this Government, to which the case was referred, that the Haytian authorities will acquiesce in its decision to be impressed upon them; assurances to be received that the machinery will be restored to the vessel.	983
690	Mr. Rives to Mr. Thompson (No. 57).	Dec. 3	Seizure of the *Haytien Republic:* Sending home the crew approved.	984

CORRESPONDENCE WITH THE LEGATION OF HAYTI AT WASHINGTON.

		1888.		
691	Mr. Bayard to Mr. Preston.	May 23	Claim of C. A. Van Bokkelen: Duplicates in English and French made of the agreement for arbitration of the claim; requests that they be signed at the Department the 24th.	984
692	Mr. Preston to Mr. Bayard .	May 24	Claim of C. A. Van Bokkelen: Will be at the Department at 2 p. m. to sign the agreement for arbitration of Mr. Van Bokkelen's claim.	984
693	Same to same.....	June 5	Claim of C. A. Van Bokkelen: Acquiescence in the choice of Mr. A. P. Morse as arbitrator in the case; Mr. Morse should declare in writing that he will decide it impartially and according to law.	984
694	Mr. Adee to Mr. Preston ...	June 9	Claim of C. A. Van Bokkelen: Suggests that the 8th of June, the date of signing the formal declaration of impartiality, be taken as the date of Mr. Morse's appointment as arbitrator in the case; copies of Mr. Bayard's letter to Mr. Morse and Mr. Morse's reply, covering his formal declaration, inclosed.	985

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695	Mr. Preston to Mr. Bayard..	June 13	Claim of C. A. Van Bokkelen: The correspondence of the Department with Mr. Morse received; June 8 accepted as the date of Mr. Morse's appointment.	887
696	Same to same.....	June 24	Claim of C. A. Van Bokkelen: Messrs. C. A. de Chambrun, George S. Boutwell, and James C. Brent are counsel for the Haytian Government in the case.	887
697	Mr. Bayard to Mr. Preston..	July 20	Claim of C. A. Van Bokkelen: Messrs. Kennedy & Shellabarger and Marston Niles will represent Mr. Van Bokkelen in the case.	988
698	Mr. Preston to Mr. Bayard..	Oct. 25	Political: Organization of the Haytian Government; revolutionists in the north; arms expected from the United States; the ports of Cape Haytien, Gonaïves, and St. Marc blockaded; requests prevention of violation of neutrality of the territory of the United States by insurgents' agents.	988
699	Same to same.....	Oct. 27	Seizure of the *Haytien Republic* for attempting to run the blockade at St. Marc with insurgents, arms, etc., on board, after trying to rouse the south of Hayti; the case submitted to the prize court; crew and prisoners well treated.	989
700	Mr. Bayard to Mr. Preston..	Oct. 29	Blockade of Cape Haytien, Gonaïves, and St. Marc: The United States will take steps to prevent sending armed vessels to Hayti to participate in the insurrection; information should be given the United States district attorney; efficient blockade duly instituted will be respected, but otherwise vessels can not be seized; sales of munitions to persons who may be concerned in the insurrection can not be stopped; seizure of American vessels without due notice of blockade will be regarded as an act of hostility.	990
701	Mr. Preston to Mr. Bayard..	Nov. 2	The seizure of the *Haytien Republic:* The seizure after proclamation of a state of war, and governed by treaty of 1864; a vessel attempting to land an armed expedition liable to seizure as a police measure; extract from Wheaton's International Law inclosed.	991
702	Same to same.....	Nov. 6	Contraband of war and insurgent officers sail for Hayti on the *Saginaw*, cleared from New York for Dominican ports; attempt made too late to stop her by revenue cutter; telegram will reach the *Boston* the 8th.	992
703	Same to same.....	Nov. 13	Political: Letter to the President from General Légitime, announcing his election as chief of the executive power of Hayti, inclosed.	993
704	Same to same.....	Nov. 14	Seizure of the *Haytien Republic:* Papers in the case inclosed; a full statement of views on this question delayed until all the papers are received; requests Mr. Bayard to suspend decision.	993
705	Mr. Bayard to Mr. Preston..	Nov. 16	Political: Acknowledgment of General Légitime's government reserved until firmly established; intercourse will be maintained with the authorities in possession; the reception by the President of General Légitime's letter deferred.	994
706	Mr. Preston to Mr. Bayard.	Nov. 19	Seizure of the *Haytien Republic:* Decision of the prize court inclosed. No diplomatic intervention until an appeal from the decision has been taken or waived. If the decision be reversed on appeal, or if the prize court has not jurisdiction, the criminal courts have. A claimant for intervention of his government must prove innocence of crime. The Haytien Republic cannot claim intervention. Copy of summons to Captain Compton and Mr. Metzger inclosed.	994
707	Same to same.....	Nov. 24	Contraband of war shipped from New York ostensibly for San Domingo, but really to insurgents in Hayti through collusion of San Domingan consul; circumstances showing this; prevention of such shipments requested; affidavit; copy of affidavit of Mr. Bassett, and of his correspondence with the consul of San Domingo, inclosed.	997
708	Mr. Bayard to Mr. Preston..	Nov. 28	Contraband of war: The construction placed by Mr. Preston upon the treaty of 1864 in regard to the exportation of arms to San Domingo not concurred in. Americans free to make, vend, and export arms.	1000

CORRESPONDENCE WITH THE LEGATION OF HAYTI AT WASHINGTON—Continued.

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710	Mr. Preston to Mr. Bayard..	Nov. 30	Seizure of the *Haytien Republic:* The case referred to the United States Government; powers received from Hayti to consider it with the Secretary of State; the opinion of the United States Government requested.	1005
711	Mr. Bayard to Mr. Preston..	Dec. 1	Seizure of the *Haytien Republic:* The decision of the United States Government on the matter communicated in note of 28th; acquiescence in the decision expected.	1006
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CORRESPONDENCE.

ARGENTINE REPUBLIC.

No. 1.

Mr. Hanna to Mr. Bayard.

[Extract.]

No. 93.] LEGATION OF THE UNITED STATES,
Buenos Ayres, November 19, 1887. (Received December 27.)

SIR: The Argentine Congress yesterday, by a strong vote, fully annulled all its export duties of every kind. This system for raising public revenue had been of long standing and most serious detriment to the industries of the country. United States importers interested in Argentine trade, its wools, hides, and linseed, and other kindred products, superabundant and cheap here and so desirable to them, can not fail to be interested in this event, and to note great advantage in it.

The export tax here on wool, for a long time amounting to 6 per cent. on its estimated official valuation, as the result of a strong popular demand, last year, was reduced 2 per cent., and now that the repeal is sweeping and entirely obliterating all vestige of such duties, every trading interest, interior and foreign, affected by it has cause for rejoicing.

This reduction just now is quite remarkable on the part of the Argentine Congress, when its treasury balances were strained and hard to reconcile. But it has been done, and is a strong appeal for reciprocity on the part of the United States.

I trust I may be allowed to make a single suggestion in this connection, not in argument, but only for general information and for the furtherance of better trade relations between the Argentine Republic and the United States. They have repealed their export laws and something is left for us to do. As matters now stand a very strange discrimination is authorized and enforced by our Government against our Argentine friends; for they have been such from the first and are now our friends.

Mr. George F. Brown, an importer of New York, who has long dealt in Argentine products, puts the question so clearly it can not be improved.

In the matter of Argentine wools he says:

The duty on combing and clothing wools, costing not more than 30 cents per pound at the place of growth, is 10 cents per pound for unwashed, regardless of condition or of their relative value to our manufacturers. This is a serious inconsistency and is a discrimination against Argentine wools, for the reason that they are much heavier in dirt and grease than wools from Australia and New Zealand. As the actual value of wool to the manufacturer depends on its quality in the scoured state and that it

must be scoured before it can be manufactured, it follows, in the application of a specific duty to wools in the grease, that the duties are heavier or lighter according to the quantity of dirt and grease the wool contains. In other words, that the duty on scoured wools should be considered.

At present Argentine wools pay the same specific duties as those from Australia and New Zealand, 10 cents per pound in the grease, but from their respective yield in scoured wool it is plain the tax is greater on the former than the latter. The average yield of Buenos Ayres wool is about 32 pounds in 100, so the duty per scoured pound would be over 31 cents. Forty per cent. is considered by dealers the average yield of Australian or New Zealand wool, and such at 10 cents per pound would be equivalent to more than 24 cents per scoured pound, or nearly 7 cents per pound less than on Buenos Ayres wool.

Here is such a discrimination against the Argentine product, an unintentional one, doubtless, that with the former export duties of this country added on, United States dealers could not possibly deal in it at all at a profit. Now that the export tax is removed it remains for our Government to finish the good work and to re-open the wool trade with this country, which would be of vast profit to us in many ways, without any attending political disturbance.

Anything that will re-establish the ancient trade relations of these two countries is of vital interest on all sides. No suggestions are made about the tariff question whatever, but why not arrange to have the Argentine Republic stand side by side with Australia, New Zealand, and other countries? Can anybody desire to continue discrimination against a sister Republic of our own continent struggling against many hinderances to follow in the footsteps of the United States and in favor of distant countries like New Zealand and Australia, the fostered colonies of England, the most powerful and partisan trade in the world?

I have, etc.

BAYLESS W. HANNA.

No. 2.

Mr. Hanna to Mr. Bayard.

No. 94.] LEGATION OF THE UNITED STATES,
Buenos Ayres, November 20, 1887. (Received January 5, 1888.)

SIR: A most important bill has passed both houses of the Argentine Congress, fixing a basis of a contract with Mr. Robert P. Houston, representing English capital, for the construction and operation of two lines of ocean steamers, one to ply between the north of Europe and the River Plate, the other between New York and Buenos Ayres. The Spanish text of this measure and translation are annexed as inclosures hereto.

It will be seen the agreement gives Mr. Houston a guaranty of 5 per cent. per annum on a sum not exceeding $6,250,000, for the construction of ten steamers, of 4,000 tons each, including four light-draught steam-launches for landing and river service for the North Europe line.

These steamers are to carry the mails for the Argentine Government free of charge.

In case of war the Government to use them at will, or to have the right to take them absolutely by purchase. Each steamer is to carry eight cadets for instruction in arts of seamanship. The ships are all to carry the Argentine flag. The ships are all to carry Argentine doctors. Duration of the guaranty to be fifteen years. Arrivals and departures to be weekly to and from Argentine ports.

The European ships to have refrigerators of sufficient capacity to carry 3,000 slaughtered sheep, or their equivalent in other fresh meats. These are the most prominent elements of the contract for the European ships.

The ships to run to New York will not contain refrigerators, but the other general features are the same. The details are quite extended. It is a tremendous scheme, and in some of its parts quite puzzling. The guaranty for the New York ships is to be 5 per cent. on a capital of $1,800,000, but annual expenditure in no case to exceed $90,000. This is not as much as was offered our own people and entails many objections and difficulties not imposed by that proposition. But our people interposed too many suggestions, and halting so long, have been left out, at least for the present. Houston proposes, without stops except at coaling stations, to run his ships at the rate of 16 miles per hour, stopping nowhere between this and New York north of Montevideo, and making the run from New York here in less than eighteen days. I have just returned from a call on the minister of foreign affairs, who has the formulation of the contract in charge, and found him in a very happy frame of mind over the situation. He assured me the first ship would run from New York here in April next. Doubts are, however, freely expressed by other steam-ship companies about Mr. Houston's ability to perform his agreements. I will have more to say about this contract, but for the present have given only its most general features.

I have, etc.,

BAYLESS W. HANNA.

[Inclosure in No. 94.—Translation.]

Terms agreed upon between the Executive and Robert Patterson Houston for direct navigation between northern Europe and the ports of the Republic.

1. The National Government proposes an annual guaranty of 5 per cent. upon a capital of £1,250,000 for the construction of ten steam-ships, for the direct navigation between the ports of northern Europe and the Republic, and for the construction of four lighters, to be used in the waters of the Republic for the transportation of immigrants and their cargo brought by said steam-ships.

2. The immigrants shall be English, Swedes, Norwegians, Germans, Danes, Dutch, Belgians, French, and of such other nationalities as the National Government may indicate.

3. The vessels shall carry the mail free.

4. In case of war the Government shall have the right to use said steam-ships as transports under conditions which shall be agreed upon. If used as cruisers or men-of-war, the Government will pay the original cost of them.

5. On each vessel the Government may place eight naval cadets, to be educated in practical seamanship.

6. Should the profits of the company exceed 10 per cent., one-half of the excess shall accrue to the Government.

7. The accommodations for first and second class shall be reduced as much as possible, the preference being given to third-class passengers.

8. The 5 per cent. guaranty shall commence in the same proportion as the vessels are finished and run from the day they leave for the ports of the Republic, including the four steam lighters, which shall be of light draught and suitable for the navigation of the Parana and Uruguay Rivers.

9. The velocity of the ten vessels shall be 16 knots per hour.

10. For the completion of this contract Houston shall present to the Argentine legation in England, where the vessels will be built, the vouchers of the cost of each one, and if the same is considered excessive the amount shall be established by experts.

11. The duration of this contract shall be fifteen years.

12. The route shall be direct from the north of Europe to the ports of the Republic—vessels touching only at Montevideo and at such points as are customary for coaling; but on their return they can touch at any point.

13. One of these vessels shall arrive at least once a week in the ports of the Republic.

14. Government cargo shall have a rebate of 40 per cent. except coal and iron, which shall have 20 per cent.

15. It being in the interest of the company to transport as many immigrants as possible from the north of Europe, it will establish at its own cost such agencies as it may deem necessary to bring about the current of immigration.

16. The price of passage for immigrants shall be agreed upon between the Government and the company without any implication that the company renounces any benefit or premium which the Government may accord at any time to those who bring in immigrants.

17. In each of the vessels running from Europe to the Republic, the company shall place a freezing apparatus with the capacity of carrying at least 3,000 sheep, or their equivalent in beef.

18. The fourteen steamers mentioned shall fly the national flag, and each one will be named for one of the Argentine provinces.

19. On the expiration of the guaranty, the vessels will continue under the Argentine flag while sailing to or from the ports of the Republic.

20. Each vessel will carry an Argentine doctor, or one of some other nationality, who shall have passed an examination in the Republic; said doctor shall be named by the Government and accepted by the company.

21. Fifteen months from the execution of this contract the service shall begin, and within two years from same date all the vessels shall be running.

22. It is understood that this company is completely independent of that which Mr. Houston has already established between Liverpool and the ports of the Republic, which may continue as before.

Terms agreed upon between the Executive and R. P. Houston, for direct navigation from the United States to the ports of the Republic.

1. Mr. R. P. Houston binds himself to establish a direct line of steamers between the United States and Buenos Ayres, which shall begin running within five months from the signing of this contract by the Argentine Government.

2. The line shall be served by three or four steamers of the same class and condition as the three for the North European service, and must be built in the same time as fixed for the others, but without freezing apparatus.

3. In the mean time, the line shall be served by such other steamers as Houston shall place in suitable condition for cargo and accommodations of passengers.

4. The guaranty shall be 5 per cent. on a capital of £360,000, maximum of said vessels.

5. The other conditions for the contract for the North European service are applicable to this.

No. 3.

Mr. Hanna to Mr. Bayard.

[Extract.]

No. 98.] LEGATION OF THE UNITED STATES,
Buenos Ayres, November 29, 1887. (Received January 5, 1888.)

SIR: The Argentine Congress, just adjourned, has vastly increased its railroad guaranties. Before the late additions they stood at $188,000,000; now they are increased by $88,000,000, making the total of such guaranties $276,000,000. The greater part of these guaranties are on a 5 per cent. basis—that is, that the roads when completed shall not fall below that on cost of construction and expense of operation.

I have, etc.,

BAYLESS W. HANNA.

No. 4.

Mr. Hanna to Mr. Bayard.

[Extract.]

No. 100.] LEGATION OF THE UNITED STATES,
Buenos Ayres, December 9, 1887. (Received January 17, 1888.)

SIR: Just before the adjournment of the late session of the Argentine Congress the President of the Republic was granted a two months' leave of absence for recreation. This vacation he has resolved to use in a general tour of observation throughout the country. He is now going from city to city and province to province in fulfillment of that design.

An invitation has been extended to the diplomatic corps to join him at Cordova, his former residence, on the 18th instant, where national ceremonies will take place, unveiling a statue of General Paz, one of the illustrious patriots who figured prominently in the early struggles of the country.

Cordova, situated among the foot-hills of the Sierra Chica chain of mountains, was one of the earliest seats of learning in the nation, and now, in addition to its colleges and other advanced schools, is especially attractive and important from the fact that the national observatory, once under the management of Dr. Gould, and more recently of Mr. Thorne, both citizens of the United States, is located there.

Its university is unquestionably the pioneer of the western world. This may startle some of our college people in the United States, but let the facts speak. Harvard College, at Cambridge, Mass., our oldest university, has made its own history and written it in characters of gold. Sixteen years after the landing of the *Mayflower* on the 28th day of October, 1636, the court of Massachusetts voted £400, equal to $1,946 United States gold, to found a college. This was afterwards done at Cambridge, March 13, 1639, and as John Harvard, a man of obscure life, had largely increased this amount out of his private funds, the college took his name—Harvard College, now Harvard University. Strange to say, though $5,000 have been offered to any who could produce five lines of authentic history of this man none has yet claimed it.

The University of Cordova was founded in 1613, twenty-six years before Harvard, by Don Fernando Trejo de Sanabria, who devoted all his private fortune to the purpose, amounting to $43,000, and erected there a structure which has withstood the trials of two hundred and seventy-four years, and is at this day in a good state of preservation.

This pioneer city of science and letters is some 500 miles west of Buenos Ayres. It will be a long railroad journey to make, but in view of the dignity of the invitation, the general interest the occasion inspires, and the fact that the route to be traveled is in the general direction of the great railroad extending from the Plate River to Valparaiso, in Chili, soon to be completed and forming a part of it, the most of my colleagues have accepted the invitation. We will leave here by special train on the 16th, and the incidents and observations of the journey, it is hoped, will furnish suitable matter for the consideration of the State Department.

On the 2d of this month this legation was honored with a special invitation from the President to accompany his party up the Uruguay River to the city of Uruguay, until quite recently the capital of the province of Entre Rios, the most beautiful and perhaps productive of

all the Argentine States. We left this port a little after noon in the *Eola*, a river steamer of rare model and appointments, of the famous Platense Line, owned by an English company and carrying the British flag.

We did not go further up the river than Paysandú.

Below this point we passed the vast salederos, or meat preserving and packing establishments, the principal one being that of Liebig, at Fray Bentos, in Uruguay. The "Liebig Meat Extract," prepared here, is known all over the world. The capital employed in this vast enterprise is English, or largely so. It now reaches nearly $3,000,000, and employs about 3,000 people—men, women, and advanced children. It exported last year nearly 1,000,000 cans each of meat and meat extracts, besides a vast amount of tanned hides, tallow, tongues, and refined grease, every part of the slaughtered animal being saved and rendered salable in some way.

At Uruguay, in the province of Entre Rios, and its recent capital, the steamer landed, and there the presidential party disembarked. At this place the national Government has erected vast and expensive port works, which were inaugurated by President Juarez in a review of the act of congress by which it was accomplished. The port and city are joined by a spur track of the Central Entre Rios Railroad, which crosses the province from Uruguay to Paraná, the early capital of the nation and the most thriving city in Entre Rios, located on the Paraná River.

From Uruguay the President crossed the province of Entre Rios to Paraná, where he was to be welcomed with great ceremonies at the early capital of the Republic. The invitation to remain with him was cordial, both on the part of himself and the governor of the province, but reluctantly declined on account of pressing matters at the legation.

However, at Cordova, on the 18th instant, the entire ministry and diplomatic corps will again have the pleasure of meeting the President before he leaves for the mountains, where, with his family, he will spend the remaining portion of his needed vacation. It is gratifying to add the flag of the United States was honorably displayed throughout the entire excursion.

I have, etc.,

BAYLESS W. HANNA.

No. 5.

Mr. Hanna to. Mr. Bayard.

[Extract.]

No. 102.] LEGATION OF THE UNITED STATES,
Buenos Ayres, December 12, 1887. (Received January 17, 1888.)

SIR: As new proof of the vast carrying trade this growing country has attracted, Messrs. Baring Bros., of London, have recently become extensive shareholders of the Italian line called The Veloce Steam-ship Company, running between Buenos Ayres and the southern coast of Europe.

Its business has become so profitable that the service, hitherto monthly only, will soon become weekly, or nearly so. The *Duchessa Di Genova* of this reconstructed company has just reached this port with 1,037 passengers, and made the run out from Naples in eighteen days.

The *Duchessa Di Genova* is a magnificent steamer of modern pattern and highest speed. The fleet of the old company, before its recent reorganization with the Baring Brothers as its largest owners, was quite large, but now by the addition of the *Duchessa Di Genova* and the *Sud America*, the *Duca Di Galliera* and *Vittoria* soon to follow, will be immense.

Soon they will touch at Lisbon, Portugal, which run they expect to make regularly in twelve days, and thence connecting by rail, over the continent, with the German Lloyd at Havre. It is thought the passage to the United States may be made in twenty-two or twenty-three days.

This movement seems to be quite an emphatic rebuke to the tardy neglect of United States enterprise.

Even the Argentine Republic, only one-twentieth part as large as our country in population, will soon launch a monthly line of steamers from Buenos Ayres to New York, carrying its heroic little flag, in fulfillment of a commercial need, long existing, but hitherto slighted by our great metropolis.

I have, etc.,

BAYLESS W. HANNA.

No. 6.

Mr. Hanna to Mr. Bayard.

No. 103.] LEGATION OF THE UNITED STATES,
Buenos Ayres, December 12, 1887. (Received January 17, 1888.)

SIR: I have the honor to inclose you herewith, inclosure presenting report of a sanitary convention recently signed by the Argentine, Brazilian, and Uruguayan commissioners, relating to the question of quarantine along the South American shores.

Difficulties and delays growing out of this situation have proved to be a sore question to the mail service and trade affairs generally. Hopes are entertained there may now be a general improvement in the matter and some relief obtained from many embarrassments.

The stipulations are given in full, as published by the commissioners themselves.

I have, etc.,

BAYLESS W. HANNA.

[Inclosure in No. 103.]

The International Sanitary Convention.

The following is the convention signed by the Argentine, Brazilian, and Uruguayan commissioners in Rio Janeiro:

ARTICLE 1.

The contracting countries agree in declaring that: Exotic pestilential diseases are yellow fever, cholera morbus, and the Eastern plague; an infected port is one in which either of the said diseases exists as an epidemic; a suspicious port is one in which isolated cases of either of said diseases are occurring, or one which is in easy and frequent communication with or is not sufficiently protected against infected ports. An infected ship is one in which a case of pestilential disease has occurred; a suspicious ship is one which, proceeding from an infected or suspicious port, has

not had during the voyage any case of pestilential disease, or one which, though proceeding from a clean port, has touched at an infected or suspicious port, or one which, during its voyage or on its arrival has communicated with another ship from an unknown, infected, or suspicious port, or one which has had deaths from an unascertained cause or repeated cases of any kind of disease, or one which does not bring a clean bill of health from the port from which it proceeded, as well as from the ports of call, or one which, though it has undergone quarantine or received special sanitary treatment in either of the contracting countries, is not furnished with an international patent of free *pratique*. The declaration of a port being infected or suspicious shall be made by the Government of the declarant country at the request of the chief of the maritime sanitary service and shall be published officially.

ARTICLE 2.

The contracting countries shall establish adequate sanitary services, and the chiefs thereof shall communicate with each other upon all matters affecting the service.

A code of international regulations shall be issued for establishing uniformity in the services.

ARTICLE 3.

The contracting countries shall establish such lazarettos as may be necesssary, and they shall be placed upon islands; at least one floating lazaretto shall be established in case of an epidemic; floating hospitals shall be created in connection with the fixed lazarettos, to be used for the treatment of persons attacked by exotic pestilential diseases in the ships which may arrive or are already anchored; the quarantines and sanitary measures adopted in any lazaretto of either of the three countries shall be considered valid, for the purposes of this convention, provided they be officially certified; the ports shall not be closed against any ship, whatever may be her sanitary condition.

ARTICLE 4.

A ship proceeding from foreign ports shall not be put in free *pratique* without a previous sanitary visit. The visiting sanitary authority shall thoroughly investigate the sanitary condition of the ship and shall decide on the treatment to be applied.

ARTICLE 5.

Three kinds of ships are recognized, steam-packets with less than 100 fore-deck passengers; immigrant transports, that is to say, steamers with or without packet privileges which carry more than 100 fore-deck passengers; sailing vessels.

Every steamer must carry a doctor on board and be provided with a high-pressure steam-disinfecting stove; with a store of disinfectants and disinfecting apparatus; with a book containing particulars of the medical stores on board, with a record of the medical prescriptions made up; with a clinical book recording minutely all the cases of illness on board and the treatment applied to them; with a list of the passengers, specifying names, ages, sexes, nationalities, professions, and port of departure, with a list of the crew and a manifest of the cargo.

The books before mentioned shall be opened and marked by the consul of one of the contracting countries in the port of departure, and the pages relating to each voyage shall be closed by the sanitary authority of the port of destination. No fee shall be payable by the captains of ships for the opening of these books. All the ship's papers shall be submitted to the examination of the sanitary authority of the port of destination and of the consular authorities of the ports of departure.

ARTICLE 6.

Every ship must bring a bill of health from the sanitary authority of the port of departure signed by the consuls of the countries to which she is bound, in the said port and in the ports of call. This must be presented to the sanitary authorities of the ports of call of the three countries, and must be given up to the sanitary authority of the last port at which the ship arrives. The sanitary document hitherto issued by consuls is suppressed. The consul to whom the bill of health is presented may make any note thereon in rectification of the facts stated therein. A bill of health so rectified shall be sent by the sanitary authority of the first Argentine, Brazilian, or Uruguay port to the port of the country to which the rectifying consul belongs, together with a sanitary note signed by the authority of the same port, in which shall be declared the treatment to which the ship has been submitted.

The consuls in the ports of departure shall ascertain the sanitary condition of such ports and, in case of rectification of a bill of health, shall transmit the reasons for the same to the other two contracting countries. Ships going to ports of all three countries must take out a bill of health in each of them. A clean bill of health is that which does not mention any case of exotic pestilential disease in the ports of departure or call, and a dirty bill of health is that which mentions an epidemic or isolated case of either of the before-mentioned diseases.

ARTICLE 7.

The contracting countries resolve respectively to institute and pay a corps of medical inspectors whose duty it shall be to watch, on board the ships, the execution of the measures adopted in favor of the health of the passengers and crews, and also to note the occurrences during the voyage and to report them to the sanitary authority of the port of destination.

These inspectors shall be subordinate to the chief of the maritime sanitary department to which they belong.

ARTICLE 8.

Two kinds of quarantine shall be practiced, rigorous quarantine and quarantine of observation. The objects of the former shall be to ascertain whether among the passengers proceeding from an infected or suspicious port any one comes attacked by a pestilential disease in course of incubation and to disinfect the objects susceptible of retaining or transmitting contagion.

Quarantine of observation shall consist in the detention of the ship for the time necessary for making a rigorous sanitary visit on board. Rigorous quarantine shall be applied to infected ships and to ships on board which have occurred cases of diseases not specified, and which could not be ascertained by means of the sanitary visit. The duration of the rigorous quarantine shall depend upon the maximum period for the incubation of the pestilential disease which it is wished to avoid in accordance with the international sanitary regulations.

The duration shall be reckoned from the date of the last case which occurred during the voyage or from the date of the landing of the passengers in the lazaretto. It shall reckon from the last case when the ship has satisfied the stipulations of article 5, and when there is an inspector on board who certifies the exact date of such case and the execution of the proper measures of disinfection and the perfect state of health then existing, and when the sanitary authority has proved the veracity of the information given. If, under such conditions, the time transpired since the last case is more than that of the maximum period for incubation, the passengers shall be put in free *pratique* as well as the ship, provided she does not bring any susceptible objects, but if she bring such objects which have not been disinfected or which still require disinfection, the free *pratique* of disembarkation shall only take place after the termination of such disinfection. If the time transpired since the last case of disease should be less than the maximum period of incubation, and if the ship should have complied with the conditions previously mentioned in reference to the commencement of rigorous quarantine, the passengers shall undergo a quarantine of as many days as may be necessary to complete the period of incubation, and this in a lazaretto, unless there should be no place available in it, in which case the quarantine shall be permitted to be effected on board.

If on the arrival of the ship there should be on board any person attacked by a pestilential disease, such person shall be lodged in the floating hospital, and the passengers shall be submitted to quarantine in the floating lazaretto, and the ship shall be subject to the provisions made for such an emergency by the international regulations. The same proceedings shall be adopted when a vessel having had a case of pestilential disease, although none may exist at the time of arrival, has not satisfied the conditions mentioned in the paragraph relating to the commencement of the rigorous quarantine.

No. 7.

Mr. Hanna to Mr. Bayard.

No. 121.] LEGATION OF THE UNITED STATES,
Buenos Ayres, January 20, 1888. (Received March 23.)

SIR: I have the honor to inform you that one Walter E. Bartel, representing himself as a naturalized citizen of the United States, recently residing in Bayonne, N. J., called at the legation and made application

for a passport. He was of German birth, had lost his naturalization certificate, and could not furnish the required proof of citizenship and truth of the facts, to be verified by his affidavit, in conformity to the late regulations of the Department, and the passport was refused. Subsequently he brought the affidavits of two United States sea-captains, well known to our consul here—Mr. E. L. Baker—as good and true men, that he was a naturalized citizen under the laws of the State of New York, and that his declarations were true. Did I exercise a proper discretion in issuing a passport on this showing, without requiring the applicant to apply to the clerk of the court where the naturalization proceedings were had for a certified copy thereof? I thought there was an emergency in his case, and acted upon such conviction.

Instructions are requested.

I have, etc.,

BAYLESS W. HANNA.

No. 8.

[Extract.]

Mr. Hanna to Mr. Bayard.

No. 143.] LEGATION OF THE UNITED STATES,
Buenos Ayres, March 22, 1888. (Received April 28.)

SIR: Referring to my No. 106, of December 24, 1887, in which I ventured the opinion this country would some day become a formidable rival of the United States in the production of the cereals, so important in the volume of our exports, I now send you some valuable figures published this morning in one of the Buenos Ayres dailies as correctly taken from official reports.

This people will produce wool almost exclusively if they are encouraged to do so, because most profitable to them. But the great United States market, the most desirable in the world, now shuts its doors against this production and drives its producers to the alternative of supplying the vast and profitable demands of Europe with that which once was almost the only hope of Indiana, Ohio, Iowa, Illinois, Michigan, Wisconsin, Missouri, and Minnesota.

It is idle to hope that Argentine industry, now attracting such wide attention as a commercial factor, will have anything to do with us on any other than a reciprocity basis. If they can not trade with us in the usual way, by exchange, they will look elsewhere and act independently, and what is still more serious, in direct conflict with us. This they have begun to do already by a perceptible diminution of their favorite pastoral industry for the cultivation of wheat, corn, barley, and linseed.

We not only have had no ships of our own to build up a carrying trade with them, but when other enterprise has in part supplied this need and their wool product has been sent to us they have found our ports shut and sealed against them.

And what is true about the Argentine nation is just as true with reference to Uruguay and Paraguay, rapidly developing into mighty empires of thrift and trade.

I have, etc.,

BAYLESS W. HANNA.

[Inclosure in No. 143.]

The exports have been as follows:

Years.	Wheat.	Flour.	Maize.	Linseed.
	Kilos.	*Kilos.*	*Kilos.*	*Kilos.*
1878	109,611	2,919,793	19,064,044	104,279
1879	7,547,438	1,603,045	29,521,317	246,034
1880	25,669,317	1,428,046	15,032,015	957,999
1881	1,165,628	1,287,396	25,052,189	6,394,518
1882	157,078	548,779	107,327,155	23,351,794
1883	1,705,292	4,814,385	18,634,351	23,064,736
1884	60,754,677	3,743,389	113,710,088	33,996,950
1885	108,499,228	7,447,077	197,859,612	69,426,924
1886	37,864,413	5,262,222	231,663,300	37,689,967
1887	237,865,925	5,386,448	361,456,705	81,183,742
Total	481,338,607	34,470,580	1,117,318,776	276,417,943

1886.			1887.		
	Kilos.	Value.		Kilos.	Value.
Wheat	37,864,417	$1,510,388	Wheat	237,865,925	$9,514,637
Flax	37,689,969	1,825,199	Linseed	81,183,752	4,059,187
Maize	231,650,300	4,663,421	Maize	361,457,705	7,229,154
Peanuts	769,197	30,747	Peanuts	3,367,300	134,696
Turnips	2,142,944	85,709	Turnips	940,821	37,633
Various	3,190	945	Various	132,785	5,307
Total		8,106,399	Total		20,980,617

No. 9.

Mr. Bayard to Mr. Hanna.

No. 61.] DEPARTMENT OF STATE,
Washington, March 27, 1888.

SIR: In your No. 121, of January 20 last, you inform the Department that one Walter E. Bartel made application to you for a passport, alleging that he was a naturalized citizen of the United States, of German birth, recently residing at Bayonne, N. J., and that he had lost his certificate of naturalization. Mr. Bartel not being able to furnish due proof to supply this loss, you properly declined to issue the passport.

Afterwards the applicant produced the affidavits of two American sea-captains who, you state, were well known to the consul of the United States as good and true men. In these affidavits the affiants declared that they knew Mr. Bartel was a naturalized citizen under the laws of the State of New York, and that his representations were true.

You then issued the passport, and now ask the judgment of the Department on the propriety of your action.

The fact to be shown was the issuance by a competent court of record of a decree of naturalization. It seems very improbable that these sea-captains could swear to that fact or that their testimony was other than hearsay or belief. The evidence on which you granted the passport has not been submitted, and the Department is consequently not in a position to decide the question authoritatively, but the statements made in your dispatch create a presumption that your action was improvident.

Your full report, with copies of the affidavits, will, however, be awaited.

I am, etc., T. F. BAYARD.

No. 10.

Mr. Hanna to Mr. Bayard.

[Extract.]

No. 150.] LEGATION OF THE UNITED STATES,
Buenos Ayres, May 3, 1888. (Received June 8.)

SIR: The promised early inauguration of the Houston line of steamships, to be operated under a contract with the Argentine Government, between New York and Buenos Ayres; the probability of a line also to Vera Cruz, Mexico, and the remote possibility of still another from Canada, are exciting general public and commercial interest just now in this country, as well as in Uruguay and Brazil, its immediate maritime neighbors.

The Houston line, I am informed at the State Department, is nearly ready to commence operations. It will carry the Argentine flag, but it will afford us direct and speedy mail service, and that will be a long stride toward active trade relations with the United States. Mexico, too, it is said, will soon come into South American waters.

The United States alone, of all the countries most interested in this field of commercial enterprise, seems contented to fold its arms in indifference. Even Canada, so far north of us and with so much less to exchange for South American products, is here looking around to ascertain how and upon what conditions she can enter this golden harvest-field.

Hon. Simeon Jones, a member of the Canadian parliament, is on the ground as an accredited commissioner, with full credentials and elaborate instructions to prepare a report to his Government of Uruguayan and Argentine industries and of the supplies Canada can furnish them in exchange for the wool, hides, tallow, and other products they can so lavishly and cheaply place in the market.

Commissioner Jones informs me that Canada has voted a liberal subsidy for a steamship line here which I think he expects to have supplemented by the Uruguayan and Argentine Governments, with some help, also, from Brazil. If United States, especially Boston and New York, enterprise, interested in opening up trade with the rich River Plate countries, is willing to play a secondary part to the bolder lead of Canada, it might furnish a portion of the capital needed for the equipment of the line, and have Boston, New York, and Philadelphia included among its call stations. It is true its ships would not carry our flag, we are used to that, but if the fact continues that we shall not be permitted to emphasize our own nationality on the seas, we may at least secure an adequate mail service, and improve our markets, now so clogged with overproduction, for the sale of United States manufactures.

I have, etc.,

BAYLESS W. HANNA.

No. 11.

Mr. Hanna to Mr. Bayard.

No. 154.] LEGATION OF THE UNITED STATES,
Buenos Ayres, May 19, 1888. (Received June 22.)

SIR: The recent abolition of African slavery in Brazil has caused great elation and joy throughout the Argentine Republic. It was made

the occasion of a Presidential proclamation, appointing last Thursday, May 17, a national holiday—an opportunity for public rejoicing, which was very generally observed throughout the nation. In Buenos Ayres a vast civic procession proceeded to the Brazilian legation, where an address of congratulation was presented by the venerable General Metre on behalf of the Argentine Republic, and a reply elicited from Baron Alencar, the diplomatic agent of Brazil now stationed here.

On the evening of the same day the vast Plaza Victoria, the cathedral, and the government house were magnificently illuminated, and the cabinet, the foreign ministers, and the chief officers of the army and navy entertained by the President at the Colon theater. It was a notable day throughout, and now that the manacles of slavery have fallen from every human limb throughout all the Americas, the popular enthusiasm has been unbounded.

I have, etc.,

BAYLESS W. HANNA.

No. 12.

Mr. Hanna to Mr. Bayard.

[Extract.]

No. 166.] LEGATION OF THE UNITED STATES,
Buenos Ayres, July 25, 1888. (Received October 1.)

SIR: The immigration to these shores still progresses with marvelous volume. It is becoming a great question, both for Europe and the United States, for the former, on account of the diminution of its most industrious and valued producing class, and for the United States, because it is the inauguration of a formidable competition in grain production, the chief factor of its most radical industry.

There is now no room for doubts that the Argentine nation will, very soon, in every way, both in commerce and the cultivation of the soil, outstrip all countries on this continent south of the United States. This is not guess-work but a fact, apparent to all who come here and take the pains to weigh carefully productive and commercial conditions.

The strong commercial nations of Europe have covetous eyes on this magnificent and vigorous young country. The great fleets of steamships which England, Germany, France, Italy, and Belgium are sending into River Plate harbors, tell the story. Russia and Austria-Hungary also are making active preparations to join in the contest. The United States alone stands off and does nothing. Its ships are scarcely known here. It certainly has the largest and best variety of raw material, the best modeled machinery and most advanced skilled labor of all the nations on the globe, and yet it stands still and looks on indifferently at the inferior European handicraft constantly appropriating its models and placing its fabrics on the market falsely called United States manufactures, thus at the same time diverting its natural trade and leeching its good name.

We want American ships here, displaying the American flag, as a guaranty that they bring American goods for the Argentine market. Then the counterfeiters will be constrained to stand on their own merits and they will go down in the presence of such competition. The question of our commercial prosperity in this great field is now exactly what it will be a hundred years hence—wholly dependent on our own

exertions. Without a steady, reliable mail service, we can not maintain trade, and trade without our own ships is an impossibility. American ships will solve the whole difficulty, and it is the only solution of it.

I have, etc.,

BAYLESS W. HANNA.

No. 13.

Mr. Hanna to Mr. Bayard.

No. 167.] LEGATION OF THE UNITED STATES,
Buenos Ayres, July 26, 1888. (Received October 1.)

SIR: Referring to my last dispatch, I now furnish some details of certain reported schemes of colonization, attracting public attention and discussion by the prints of this capital.

A report has been widely circulated that a large secret organization of colored people of the United States has funds in readiness, has sent agents to Brazil and the Argentine Republic, and perhaps some other South American States, to negotiate terms of settlement for an extended exodus of negro families from the United States in search of new homes.

The manager of an English land syndicate called at the legation today, asking what I knew about such contemplated exodus from my country, stating he could place an entire township at their disposal, on such easy terms of purchase that there could be no cause for hesitation, if they wanted to come and engage in cattle, sheep, or agricultural farming. I had no information on the subject, and so informed this enterprising landed proprietor. On inquiring what he knew of such a project, I was told he "had positive information there was such a scheme on foot, and that it must very soon take on the form of development."

This rumor has been circulating about some time, but I have never before thought it serious enough to make a note of. Now as the inquiry comes so direct and from such a respectable source, I give the information as it has come to me.

It is unquestionably true, a vast movement is on foot in Germany and Alsace-Lorraine to send settlements here. I send herewith, as an inclosure, what the Daily Standard of this city has to say about it this morning. These coming people, it is said, are to engage in small farming, as in the United States, in grape culture, and the production of wheat and corn. The Department will be kept fully advised of developments, if such expected results are realized.

I have, etc.,

BAYLESS W. HANNA.

[Inclosure in No. 167.]

Comments of the Buenos Ayres Standard—200,000 *Alsatians.*

Nothing points so forcibly to the progress of this country, in the estimation of the world, as the increasing avidity displayed to know more about it in Europe and North America. Every mail brings us dozens of applications and letters eagerly asking for information, and the sale of our "Hand-book of the River Plate" has been so brisk for the last six months that the new edition is on the point of being exhausted. We

are not reluctant to admit that the so-called propaganda bureaus are entitled to some part of the credit for this fresh boom abroad in favor of the Plate; and, although some of them manifestly devote themselves to "painting the lily," still their patriotic efforts, we think, are becoming grease to the wheels of the Republic's progress.

Some days ago we announced that a scheme was rumored on foot to bring to these shores 10,000 Germans, to relieve the misery caused by the terrible inundations of last spring in that Empire, and yesterday brought the news that 200,000 Alsatians, who refuse to be Germans, are ready to come here when the ground is prepared for them. To this end a special commissioner of the French Patriotic League, an institution that has for mission to prevent as many Alsatians and Lorrainers as possible accepting German nationality, has just arrived here, and if we had our way we would accord him a ten times warmer welcome than that given to our recent editorial guests, who brought us the flowers of rhetoric, while the agent of the French Patriotic League promises us the flower of Rhineland peasantry.

The incalculable benefit that must accrue to the country if this vast immigration scheme be brought to a successful conclusion, as we trust it may, is not to be solely measured by the increased population, production, and consumption it involves.

The preponderance of Italian immigration for many years now has hitherto borne nothing but good fruit, but it is obvious that the time has come when grafts from other stocks will make that fruit all the better, both from the statesman's and physiologist's points of view. The future Argentine will have the freshest blood in the world in his veins if the center and north of Europe now may be called in to redress the too rapidly increasing balance of the south in the Republic's population.

In presence of this promise of 200,000 French peasants, the old question arises, Is the National Government in a position to receive and settle such a host? Where is land to be found for them? Where are they to go? We unhesitatingly say, southward! ho! The tropical Chaco, the half tropical interior, would never suit these new-comers. Their promised land is the valley of the Rio Negro, where climate and soil are alike suited for them.

The National Government has frequently avowed its determination to make efforts to attract emigration from Northern Europe. The arrival of the French Patriotic League agent is a golden opportunity for initiating this sound policy. Our land immigration, colonies, and other too numerous and conflicting laws and regulations are in such a miserable, Lord Dundreary state of hodge-podge that the French agent could never see his way safely through them; indeed, we doubt if the whole cabinet, with the versatile and brilliant premier at their head, could perform the feat. The occasion is a special one and calls for special measures, and we hope the Government will not hesitate to adopt them.

The successful settling of these 200,000 French peasants in the fertile valley of the Rio Negro would indeed be a new departure in the immigration line, and would most certainly attract a million more hands from Northern Europe in a few years. They can not all come out at once, no doubt; but the fact that they are within our reach is of the very first importance and of far greater moment to the future welfare of the nation than conversion of debt, launching of new loans, or any other purely administrative act whatever, however profitable. Now is the time to prove to the peasantry of North Europe that there is a place, work, and future competence for all who make this favored country their adopted home.

No. 14.

Mr. Hanna to Mr. Bayard.

[Extract.]

No. 168.] LEGATION OF THE UNITED STATES,
Buenos Ayres, July 29, 1888. (Received October 1.)

SIR: Some of the railroads heretofore guarantied by this Government begin to develop serious complications. These concessions, having been granted on approximate estimates of cost of construction and value of earnings, impose upon the grantees certain obligations, the neglect of which now threatens to give them trouble.

The most of these concessions were given to English syndicates, with directories existing in London, and out of sight of their obligations here. The result seems to have been, they have given more attention to the

collection of their coupons than the careful and enterprising operations of their investments contemplated in their undertakings. The Government complains they are not operating their roads properly, that they do not sufficiently keep up their road way and track, their equipment, etc., so as to render them of public and profitable utility, rather than a charge on the national treasury.

The whole subject was brought to the attention of Congress in the President's opening message, as appears in inclosure 1 where he quite forcibly admonished all such derelict companies they must operate their charters according to contracts, or their expected profits would be made to supply their omissions.

This message has been especially communicated to the home office of the British Government by Hon. John Jenner, chargé d'affaires, in absence of Mr. Packenham, minister, and has resulted in notices issued by Lord Salisbury to the secretaries of the various companies to put themselves right.

The position of the Argentine Government, as said before, is that these guarantied roads must increase their receipts to the fullest possible standard of prudent management, or that the guaranties may be withdrawn or the amounts covered by them be applied to betterments.

The English Government is disposed to require its subjects to keep faith with this Government.

The letter of the Marquis of Salisbury to the secretaries of the Argentine railways is lofty in spirit and worthy of commendation.

I have, etc.,

BAYLESS W. HANNA.

[Inclosure 1 in No. 168.—Extract.]

President's message.

Careful examination of the figures furnished by the railways demonstrates that there is not a single railway which recognizes its true duty towards the public, and that renders services to the country equivalent to those reckoned upon by the authorities in granting the concessions. The railway traffic might be doubled, and even trebled, in parts; it might be considerably increased so as to give larger returns, thus facilitating a reduction in the tariffs and diminishing the pressure on the public treasury in respect to permanent lines.

The guarantied lines are in honor bound to make every effort to increase their receipts, and their failing in this respect would justify the Government in withdrawing the guaranty, and I fail to see who could criticise this proceeding, even by invoking the rights of the share-holders or bond-holders of a railroad whose administration is content to draw the entire guarantied interest at the end of each quarter, while it suffers the traffic to languish or cease altogether, and the road and the rolling stock to perish.

[Inclosure 2 in No. 168.—Extract.]

From Lord Salisbury; circular.

Under date 28th ultimo, the London foreign office issued the following letter to the secretaries of Argentine railways:

"SIR: The Marquis of Salisbury considers it to be expedient, in view of the public interests concerned, to bring to the knowledge of the directors of your company certain statements with respect to the alleged defective management of railways in the Argentine Republic, which have been reported by Her Majesty's chargé d'affaires at Buenos Ayres. Mr. Jenner reports that this subject was dwelt upon at some length in the last message of the Argentine Republic, and I am directed by Lord Salisbury to transmit, for the information of the directors, the accompanying extracts of a dispatch containing the statement above referred to.

"I am, etc.,

"JAMES FERGUSON."

No. 15.

Mr. Hanna to Mr. Bayard.

No. 182.] LEGATION OF THE UNITED STATES,
Buenos Ayres, October 3, 1888. (Received November 26.)

SIR: I have the honor to inform the Department the regular session of the recent Argentine Congress closed the 29th ultimo. In view of the pressing importance of certain measures, embracing the charters of a number of projected railroads, greatly needed for the increasing traffic of this growing country, President Celman has called an extra session of Congress, which met the 1st instant. It is now thought this session will close sometime the latter part of November.

I have, etc.,

BAYLESS W. HANNA.

AUSTRIA-HUNGARY.

No. 16.

Mr. Porter to Mr. Lawton.

No. 5.] DEPARTMENT OF STATE,
Washington, September 8, 1887.

SIR: I inclose herewith for your information a copy of a dispatch to this Department from Mr. von Versen, the American vice-consul-general at Berlin, relative to the treaty recently concluded between Austria and the German Empire in relation to the right to sue *in forma pauperis;* also a copy of the Department's instruction to Mr. Pendleton, our minister at Berlin, in regard to the subject, called out by Mr. von Versen's suggestion as to the propriety of negotiating a similar treaty between the United States and the German Empire.

The question of how far foreigners can sue *in forma pauperis* is determined by the *lex fori*, which, under our Constitution, it is not within the province of the Federal Government to settle by any general law. As a mere matter of practice, however, it may be mentioned that there are, so far as this Department is informed, no jurisdictions in the United States in which an alien, as such, is precluded from suing *in forma pauperis.* In view of the fact that such a convention is apparently necessary to give Germans in Austria the right to sue *in forma pauperis*, you may, as a matter of interest, inquire and report how far the privilege of so suing is granted to American citizens bringing suit in Austria.

I am, etc.

JAMES D. PORTER,
Acting Secretary.

[Inclosure 1 in No. 5.]

Mr. von Versen to Mr. Porter.

No. 274.] UNITED STATES CONSULATE-GENERAL,
Berlin, August 6, 1887.

SIR: It occurs frequently that either United States citizens or subjects of the German States for lack of means are unable to commence and prosecute lawsuits against parties domiciled on the other side of the Atlantic, and this sometimes in lawsuits likely to turn out in their favor.

Under the laws of the German States, persons whose poverty is proven by certificates from the local authorities of their domicile, enjoy the privilege to commence and prosecute lawsuits within Germany free of cost, and being dispensed with depositing court's cost in advance.

This privilege has now been extended, by a convention concluded on the 9th day of May, 1886, and ratified this year, to the subjects of the Austro-Hungarian Empire, and *vice versa* by Austria-Hungary to the subjects of the several German States.

Considering the variety of relations between the United States and Germany—hardly less numerous than those between the German and Austrian States—it would, in my opinion, be of great benefit to many of our citizens who have not the means to

bring lawsuits in Germany (for instance with regard to estates left by relatives) if a similar convention could be concluded between the United States and the German Empire.

I am, etc.,

F. VON VERSEN,
United States Vice-Consul General.

(Inclosure 2 in No. 5.]

Mr. Bayard to Mr. Pendleton.

No. 249.] DEPARTMENT OF STATE,
Washington, August 30, 1887.

SIR: I inclose herewith a copy of a dispatch to this Department from Mr. von Versen, the American vice-consul at Berlin, relative to the treaty recently concluded between the German Empire and Austria-Hungary relative to the right to sue *in forma pauperis*. In commenting upon that convention Mr. von Versen suggests the propriety of negotiating a similar treaty between the United States and the German Empire.

It is hardly necessary to say that the question of how far Germans can sue *in forma pauperis* is determined by the *lex fori*, which, under our Constitution, it is not within the province of the Federal Government to settle by any general law. As a mere matter of practice, however, it may be mentioned that there are, so far as this Department is informed, no jurisdictions in the United States in which an alien as such, is precluded from suing *in forma pauperis*. As a matter of interest you may, in view of the communication herein inclosed, inquire and report how far a similar privilege is granted to citizens of the United States bringing suit in Germany.

I am, etc.,

T. F. BAYARD.

No. 17.

Mr. Lawton to Mr. Bayard.

No. 14.] LEGATION OF THE UNITED STATES,
Vienna, November 4, 1887. (Received November 21.)

SIR: I have the honor to inclose the application of Mr. Sigismund Löwinsohn to this legation for a passport; also his certificate of naturalization by the court of common pleas of New York City on the 5th day of February, 1872, and a passport given to him by this legation on November 10, 1883.

It appears that the applicant was born in Hungary, and taken to the United States while a minor and before he could make choice of a country; that, after reaching twenty-one years of age, he became a naturalized citizen of the United States, and within less than a month thereafter he returned to Austria-Hungary, the country of his birth; now resides in Vienna with his family, engaged here in a lucrative business, and has never visited the United States since he left that country in February, 1872. It further appears from his application for a passport that he is desirous of "registering the birth of a child;" but he can not and will not say that he expects to return to the United States at any definite time.

Upon such a statement of facts this legation refrains from issuing a passport, unless instructed to do so by the Department of State. This is one of the (too) numerous cases where "naturalization papers" seem to be procured to hold for emergencies and to give a claim for protection by the United States Government whenever service or duty shall be demanded by the country of birth and of present permanent residence,

and to which, in this case, the applicant returned almost at the moment of taking the oath of allegiance to the United States. It is to be hoped that our Government will require some stronger evidence of a willingness to recognize the obligations and bear the burdens of a citizen of the United States before announcing that the claimant is under its protection, by granting a passport.

This legation respectfully asks the instruction of the Department in the premises; and

I have, etc.,

A. R. LAWTON.

No. 18.

No. 14.] *Mr. Bayard to Mr. Lawton.*

DEPARTMENT OF STATE,
Washington, December 5, 1887.

SIR: I have received your No. 14 of the 4th ultimo, reporting your refusal to issue a passport to Mr. Sigismund Löwinsohn, who, being desirous of "registering the birth of a child," has applied, as a naturalized citizen of the United States, for a passport, but refuses to make any definite statement as to the time of his return to the United States, and evidently has no definite intentions on that subject.

As appears by his certificate of naturalization Mr. Löwinsohn was naturalized in the court of common pleas of New York City on the 5th of February, 1872. He was born in Pressburg, Hungary, on the 5th of February, 1851, and therefore had just reached the age of twenty-one years on the day of his naturalization. He came to the United States in November, 1866, and had consequently, at the time of his naturalization, lived in the United States just long enough for that purpose. He left the country of adoption in February (he does not give the day), 1872, a few days only after his naturalization, returned to the land of his nativity, and in March, the month after his departure from the United States, settled himself in Vienna, where he has since continued to reside, has married and had children born to him, and is engaged in a lucrative business. He has never visited the United States since he left it in 1872, and now evidently has no definite intention of ever returning and performing the duties and assuming the liabilities of American citizenship.

Your action is approved.

I am, etc.

T. F. BAYARD.

No. 19.

Mr. Lawton to Mr. Bayard.

[Extract.]

No. 19.] LEGATION OF THE UNITED STATES,
Vienna, December 10, 1887. (Received December 27.)

SIR: I have the honor to transmit translation of a note received from the ministry of foreign affairs in answer to an informal note

which I addressed to Mr. de Szögyényi, chief of section at the ministry of foreign affairs, as to the right of foreigners to sue in the courts of the Empire *in forma pauperis*.

I have, etc.. A. R. LAWTON.

[Inclosure in No. 19.—Translation.]

Baron Pasetti to Mr. Lawton.

SIR: In compliance with the desire expressed in the esteemed note No. 7, under date of 19th ultimo, respecting the right to sue *in forma pauperis*, the ministry of foreign affairs has addressed itself to the ministry of justice of both parts of the Empire, and now has the honor to communicate to the envoy extraordinary and minister plenipotentiary of the United States of America, General Alexander R. Lawton, the regulations which are in force in this part of the Empire on the subject in question.

The laws in the countries represented in the reichsrath provide that persons without means be exempt from paying taxes and stamp duties in connection with lawsuits. In cases where the law requires that the parties be represented by lawyers, an attorney will be appointed by the members of the bar, and the appointment carries with it exemption from payment of fee and tax.

If the party to whom this privilege was granted subsequently comes into possession of means, the payment of the lawyer's fee, of taxes, and of stamps, can be made from the amount realized by gaining the suit.

The poverty of the plaintiff is also taken into consideration in regard to securing the expenses of the defendant. While the plaintiff is bound to give security for the amount necessary to cover the expenses of the court, or to make oath that he is unable to give that security, the plaintiff, when once the right to sue *in forma pauperis* is conceded to him, is legally exempt from giving security for these expenses and also from giving oath.

As far as the persons are concerned to whom these benefits are granted, there is no law by which this privilege is made dependent upon Austrian citizenship, and for this reason the right of foreigners to sue *in forma pauperis*, unless coming under the provisions of special international treaties, is regulated by paragraph 33 of the general civil law, according to which foreigners as well as natives enjoy that privilege.

The above-mentioned paragraph reads as follows:

"Foreigners enjoy the same rights and have the same duties as native citizens, if not otherwise expressly provided that citizenship is a requisite for the enjoyment of such rights. Foreigners, in order to participate in this benefit, must, in cases of a doubtful nature, prove that the State of which they are citizens extends the same right to citizens of Austria."

Special treaties touching the right to sue *in forma pauperis* have been concluded with France (treaty of May 15, 1870, R. G. B. No. 43, 1880), Belgium (treaty of July 19, 1880, R. G. B. No. 19, 1881), Servia (treaty of May 6, 1881, R. G. B. No. 88, 1882), Italy (treaty of February 9, 1883, R. G. B. No. 113), Switzerland (treaty of January 8, 1884, R. G. B. No. 137), and the German Empire (treaty of May 9, 1886, R. G. B. No. 22, 1887). These treaties, for the greater part of uniform text, agree to grant to the subjects of the contracting powers the same privileges conceded to their own subjects.

The imperial and royal ministry of foreign affairs will communicate to his excellency, the American minister, the provisions of the respective law which are in force in the countries of the Hungarian crown as soon as a reply has been received from the royal Hungarian minister of justice.

The undersigned avails, etc.

For the minister of foreign affairs.

M. PASETTI.

VIENNA, *December* 7, 1887.

No. 20.

Mr. Lawton to Mr. Bayard.

No. 21.] LEGATION OF THE UNITED STATES,
Vienna, December 17, 1887. (Received January 4, 1888.)

SIR: Referring to my dispatch No. 19, under date of the 10th instant, and its inclosure, wherein it was said that information respecting the

right to sue *in forma pauperis* in Hungary would be sent as soon as a reply to an inquiry made on the subject had been received from the royal Hungarian minister of justice, I now have the honor to transmit a translation of a note just received from the ministry of foreign affairs respecting the rights of foreigners to sue *in forma pauperis* when residing in the countries of the Hungarian Crown.

I have, etc.,

A. R. LAWTON.

[Inclosure in No. 29.—Translation.]

Baron Pasetti to Mr. Lawton.

SIR: In pursuance of the note No. 28752–7, under date of the 7th instant, the imperial and royal ministry of foreign affairs has the honor to inform his excellency, General Alexander R. Lawton, envoy extraordinary and minister plenipotentiary of the United States of America, that the laws which are in force in the countries of the Hungarian Crown provide that foreigners are entitled to the right of suing *in forma pauperis* when they are subjects of a State which has concluded a treaty with the Austro-Hungarian Monarchy, by which mutual privileges are secured, or in the terms of paragraph 85 of the instructions given to the royal courts of justice, if they are subjects of a state in which the same procedure is observed towards Hungarian citizens.

The undersigned avails, etc.
For the minister of foreign affairs.

M. PASETTI.

VIENNA, *December* 14, 1887.

No. 21.

Mr. Lawton to Mr. Bayard.

[Extract.]

No. 25.] LEGATION OF THE UNITED STATES,
Vienna, January 6, 1888. (Received January 31.)

SIR: In view of the anti-Semitic imbroglio which somewhat excites the Governments of Austria-Hungary and the United States, not long since, it is interesting to note that during the recent "holidays" the Baron and Baroness Albert Rothschild were declared by imperial decree *hoffähig*, that is to say, they will for the future be admitted to court balls. This is the first time that such a privilege has ever been conceded to persons of Jewish origin or faith, and it is causing a great sensation in the highest society of Vienna. Very many quarterings of nobility (sixteen, I believe) are the usual requisites of *Hoffähigkeit;* and it was not until last year that the wives of cabinet ministers, not being members of noble families, were admitted to court by reason of their husbands' offices.

This exclusion from court circles has long been sorely felt by the Rothschild family, and it has been rumored during the past year that Baron Albert intended to dispose of his palace residence and other property in Vienna, and retire altogether from Austria with his colossal fortune.

I have, etc.,

A. R. LAWTON.

CORRESPONDENCE WITH THE LEGATION OF AUSTRIA-HUNGARY AT WASHINGTON.

No. 22.

The Chevalier de Tavera to Mr. Bayard.

WASHINGTON, *December* 23, 1887. (Received December 23.)

SIR: As it appears by the last official report on the life-saving stations in the United States, several members of the station No. 17, Forked River (New Jersey), have particularly distinguished themselves on occasion of the wreck of the Austrian bark-ship *Kraljevica*, which occurred on February 11 last.

The names of these courageous seamen are the following: John Soper, Samuel Perrini, Solomon Soper, William Inman, Cornelius Thomson, Henry Reeves, and Joel Ridgeway.

The three first named unfortunately succumbed whilst attempting to rescue the crew of the *Kraljevica*.

The Imperial and Royal Government, recognizing fully the self-abnegation with which these dutiful seamen tendered their services to the Austrian ship, entirely regardless of their own personal danger, I have been instructed to forward as an acknowledgment of these services the following gratifications to the above-named persons, viz: To W. Inman, C. Thomson, J. Ridgeway, and H. Reeves, $40 each (total $160); $100 to each of the families of the deceased seamen, viz: J. Soper, S. Soper, and S. Perrini (total $300).

I have consequently the honor to address myself to your obliging intervention, with the request to forward the inclosed sum of $460 to the indicated persons, expressing, at the same time, my fullest appreciation of the courage and devotion with which these seamen have been exposing and partially also sacrificing their lives in the accomplishment of their arduous and perilous duty.

I avail myself, etc., TAVERA.

No. 23.

Mr. Bayard to the Chevalier de Tavera.

DEPARTMENT OF STATE,
Washington, December 28, 1887.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, inclosing a certificate of deposit for the sum of $460, which your Government desires to have distributed in part to the families of certain men in the American Life-Saving Service who lost their lives in an attempt to rescue the shipwrecked crew of the Austrian bark *Kraljevica*, and the remainder to certain survivors who rendered services on the occasion in question.

In reply I have the honor to inform you that it has afforded me great pleasure to make the generous action of your government known to my colleague, the Secretary of the Treasury, and to request him to cause the fund to be distributed in accordance with the directions contained in your note.

Accept, sir, etc., T. F. BAYARD.

BELGIUM.

No. 24.

Mr. Tree to Mr. Bayard.

[Extract.]

No. 278.] LEGATION OF THE UNITED STATES,
Brussels, November 30, 1887. (Received December 13.)

SIR: I have the honor to invite your attention to article 2 of the decree of the sovereign of the Independent State of the Congo on the use of flags within the boundaries of that state, published in the "Bulletin Officiel" No. 5 (May, 1887, 3d year), and which will be found on file in the Department.

Article 2 reads as follows:

> Every private vessel navigating the waters of the Independent State of the Congo, up the stream beyond the falls of Leopoldville, will be required to hoist at the stern the flag of the State. If she possesses ship's papers establishing her foreign nationality, she may hoist, in addition, the flag of her own country.

Article 3 fixes a penalty for the non-observance of the provisions of article 2.

My impression has been that, in accordance with a custom which is universal, vessels entering the rivers and harbors of another nation have the right to hoist the flag of their own nationality at the stern. If so, it is a curious departure from the general practice to compel the display of the Congo State flag at that part of the vessel, especially in view of article 2 of the general act of the Berlin conference, stipulating for the free navigation of the Congo and all of its affluents by the vessels of all nations.

I have, etc.,

LAMBERT TREE.

No. 25.

Mr. Bayard to Mr. Tree.

[Extract.]

No. 90.] DEPARTMENT OF STATE,
Washington, December 7, 1887.

SIR: I inclose herewith copy of a dispatch addressed to this Department by the United States consul at St. Paul de Loando, and of its inclosure, being a petition signed by the Rev. A. Billington, a representative of the American Baptist Missionary Union at Stanley Pool, in the Congo Free State, setting forth certain arbitrary acts of the Congo

authorities in seizing and diverting to their use a small steamer, the property of the said union, and employed in missionary work, and praying for protection and for the issuance of the papers necessary to enable that vessel to fly the Congo flag.

As the consul at St. Paul de Loando is not accredited to the Congo State, and the United States have at present no consular representative in that State, it becomes necessary to address the Congo Government through you.

The first ground of complaint is the attempt of Mr. H. M. Stanley to appropriate the vessel to his use in April last, an attempt, as would appear, so arbitrary and lawless that the chief of the Congo station at Stanley Pool was obliged to interfere to prevent Mr. Stanley from carrying out his purpose by force, whilst, however, aiding to accomplish the end in view, under the authority of the Congo State, by causing her to be handed over for the use of Mr. Stanley for forty-five days.

The second ground of complaint is even more serious, for it is alleged that, after having been kept by Mr. Stanley considerably beyond the forty-five days stipulated, and when returned by him and on its way back to the mission headquarters, the steamer was forcibly taken possession of, at Bangala, by armed soldiers of the Congo State under command of Lieutenant Vangele; and, up to the 3d of August last, was still held by the agents of the Congo State.

You will bring the allegations of Mr. Billington to the attention of the Congo Government, earnestly remonstrating against any such interference with the property rights of American citizens, and asking that steps be taken to restore the steamer in question to the agent of the American Baptist Missionary Union at Stanley Pool, and that a searching investigation be made of the arbitrary acts said to have been done in this regard by the Congo authorities, with prompt and effective reparation of any injury done to the owners by reason of the forcible seizure of the steamer.

No objects can be more legitimate or praiseworthy than those of the missionary laborers in Africa, and no missionaries are more entitled to considerate and just treatment at the hands of the Congo authorities than those who are citizens of the country that first recognized the Congo flag and has been unstinting in its expressions of sympathy and aid toward the establishment of civilized and liberal government in the Congo territories.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 90.]

Mr. Newton to Mr. Rives.

No. 33.] CONSULATE OF THE UNITED STATES,
St. Paul de Loanda, September 30, 1887.

SIR: I have the honor to inclose copy of a petition drawn up by the Rev. A. Billington, of the American Baptist Missionary Union at Stanley Pool, and to ask for instructions with reference to the same. I doubt if any papers granted by me would be recognized by the Congo Free State, as I am not recognized as consul for that district.

I am, etc.,

ROBT. S. NEWTON,
Vice-Consul.

[Inclosure 2 in No. 90.]

Mr. Billington to Mr. Newton.

AMERICAN BAPTIST MISSIONARY UNION,
Stanley Pool, Congo Free State, August 3, 1887.

To the American Consul, St. Paul de Loanda:

SIR: The above society has a small steamer on the waters of the Upper Congo for the purpose of conveying missionaries and their goods to its stations. It did not occur to us to be necessary to have "papers" on our steamers till a few weeks ago. It has, however, recently become necessary. In the first place, for the protection of the mission property, and, in the second place, because that, after the 1st of September, 1887, we are compelled to fly the flag of the "Congo Free State," but are not allowed to fly any other flag until we have the proper papers of our nationality on board.

In April last when Mr. H. M. Stanley arrived here he applied for the use of our steamer, but our circumstances were such that we could not do as he wished; he then attempted to take the steamer by force, by placing an armed band at the entrance of our mission station and another at the place where our steamer was at anchor, and then sent in a letter demanding the instant surrender of the steamer; in case of my not complying, his officers had orders to enforce the demand at any risk either to myself or those concerned.

Before anything was done, the chief of the station of the "Congo Free State" at this place protested against Mr. Stanley's action in the name of the State, and the armed forces were withdrawn.

The chief of the station of the Free State then applied for the steamer, but our circumstances remaining unaltered we were obliged to refuse. It however became very clear to us, from conversation and correspondence, that the steamer would be taken, so that we ultimately handed her over to the Free State, under protest, for Mr. Stanley's use, for the space of forty-five days. She was kept considerably beyond this time by Mr. Stanley, but after she had been sent away by him, to be returned to us, before reaching here she was seized by another officer of the Free State.

This seizure took place at the State station Bangala, by Lieutenant Vangele. This officer first applied for the use of the steamer of the English Baptist Mission, she being there at the same time, but being refused he at once marched twenty armed soldiers on board the *Henry Reed*. His action was protested against by some of those in charge of the steamer, but without effect, and the steamer has not yet been returned to us.

It was only yesterday that we received the decree of the King respecting flags, and now at once write to ask if you will kindly arrange for us to get the "papers" as early as possible, that we may be able to use the American flag.

I inclose particulars of the steamer and hope they will meet all requirements.

I have the honor, etc.,

A. BILLINGTON,
Member of the American Baptist Missionary Union and in charge of the said steamer Henry Reed.

No. 26.

Mr. Tree to Mr. Bayard.

[Extract.]

No. 282.] LEGATION OF THE UNITED STATES,
Brussels, December 15, 1887. (Received December 28.)

SIR: An interesting debate, lasting several days, has just terminated in the Belgian Chamber on the subject of orders for cannon which have been given by the Government to the Messrs. Krupp. Some of the speakers asserted that just as good guns could be made at the royal foundry at Liege as those ordered from Krupp, and that sound policy dictated that Belgium should not go to either Germany or France to procure arms, as she may be on terms of hostility any day with either

or both of them. That Krupp could furnish cannon to Belgium only so long as Germany permitted him to do so, and that he would probably be forbidden to do it the very moment they were most required. That if she was obliged to go abroad for weapons she had better address herself to England, who was her ancient and faithful friend. It was also alleged in the course of the debate that Krupp's mode of manufacture was no secret, that the cannon was in commerce, and that any one had the right to copy the model.

The minister of war, in defending the course of the Government, declared that he desired to favor the national industry as far as the public interest would permit, but that one hundred and twenty field-guns were still required, which must be bought from the Messrs. Krupp, in order to preserve uniformity in that branch of the armaments.

The minister stated that for the armament of the infantry trials were progressing with small-caliber Schouloff, Nagant, and Mannlicher rifles. That the supply of the arm eventually selected for this purpose, as well as the cartridges, would be obtained in Belgium.

A resolution was finally offered demanding that, before any order was given to Messrs. Krupp, trials should be made of the cannon manufactured at the royal foundry in Liege. The ministers, however, would not consent to this, and the Government was sustained by a vote of 65 to 35.

In connection with military matters it may not be irrelevant to mention that the contingent of the Belgian army to be summoned for 1888 will number 13,200 men. It is said that, in case of mobilization, the army will embrace 100,000 men, with a reserve of 30,000 old soldiers, who may be called out in time of war.

The war budget for 1888, calculated on the basis of 48,403 men and 8,974 horses, amounts to 46,047,570 francs.

Work on the fortifications along the Meuse is progressing under the superintendence of the distinguished engineer Brialmont.

I have etc.,

LAMBERT TREE.

No. 27.

Mr. Bayard to Mr. Tree.

[Extract.]

No. 92.] DEPARTMENT OF STATE,
Washington, December 19, 1887.

SIR: Your No. 278, of the 30th ultimo, asking for instructions relative to the flag to be hoisted by American-owned vessels in the Congo Free State, makes it proper to supplement my instructions No. 90, of the 7th instant, in regard to procuring a flag license for a small steam-boat, the *Henry Reed*, employed in mission work on the Congo River above Stanley Pool.

By the Congo convention, signed at Berlin, the Congo River and its tributaries are opened to the trade and navigation of citizens of all countries and their vessels. Although the Government of the United States is not a party to that convention, yet the peaceful use of the benefits offered by the Congo Free State to the world at large are shared by their vessels and their citizens.

The commerce of the Congo Free State being thus freely opened, the American vessel, viewed as a vehicle of transit, may be either a reg-

istered vessel of the merchant marine of the United States or an unregistered vessel owned by citizens of the United States, without affecting her enjoyment of the guarantied privilege of navigation. In either case she has the right to fly the flag of the United States.

This Government holds it to be a settled principle of international law that ships not only are entitled to carry wherever they go the flag of the country of which their owners are citizens, but that it is their duty, as a rule, to carry such flag alone, inasmuch as the very fact of a vessel's having on board and displaying a plurality of flags renders her liable to suspicion. With this principle municipal laws requiring in certain cases quarantine or pilot ensigns to be carried do not conflict, because such ensigns do not claim to be flags of nationality. But the principle would be directly antagonized by a rule that vessels navigating the rivers of a particular State, when such rivers are open, as in this case, to foreign navigation, should carry the flag of that State. This is the purport of article 2 of the Congo decree of April 30, 1887, which you quote. Its effect is to substitute the flag of the Congo Free State for the national flag of the vessel by requiring its display on the staff at the stern, which in steamships is generally the place of the vessel's national emblem, although it is also shown at the peak. And this effect is not altered by the further provision of the same article 2, which permits the vessel to fly also the flag of the country to which she belongs.

This proviso is open to two serious objections. It subordinates the national flag to the temporarily displayed Congo flag. And it implies assertion of right on the part of the Congo authorities to determine the sufficiency of the vessel's title to fly her national flag by making it depend on the possession of papers establishing nationality. It is the province of each country to determine for itself the conditions for the use of its flag upon its vessels, and the United States' rule is that vessels *bona fide* owned by citizens of the United States are entitled, when abroad, to carry the flag of the United States irrespective of the question of the papers they may have on board.

With regard to the general question, as presented in your No. 278, you will make to the minister for foreign affairs of the Congo Free State a protest against the application of article 2 of the decree of April 30, 1887, to vessels owned by citizens of the United States, and will further protest against the application to such vessels of the last clause of that article which makes the right to carry a national flag dependent upon the possession of papers on board establishing nationality.

I am, etc.,

T. F. BAYARD.

No. 28.

Mr. Tree to Mr. Bayard.

No. 283.] LEGATION OF THE UNITED STATES,
Brussels, December 19, 1887. (Received January 3, 1888.)

SIR: The burgomasters of a number of the communes in Belgium have recently issued proclamations forbidding absolutely the hoisting of the red flag, on the ground that it presents an emblem of a seditious and anti-national character.

Persons hostile to the existence of all government founded on law have heretofore made very free use of this emblem in Belgium in their processions and at their meetings, until it has finally become necessary, in the opinion of the executive officers in the communes where it has made its appearance, to put a stop to it.

While the persons who follow this flag through the public streets and put it over the doorways where their meetings are held are not numerous in the country and are for the most part professional agitators, yet it has been observed that it tends to irritate the law and order people, who consider it as an insult to their own national colors, and if persisted in would, as the authorities believe, lead to collisions.

I have, etc.,

LAMBERT TREE.

No. 29.

Mr. Tree to Mr. Bayard.

[Extract.]

No. 289.] LEGATION OF THE UNITED STATES,
Brussels, January 6, 1888. (Received January 17.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 90, of the 7th ultimo, on the subject of the wrongs inflicted on the American Baptist Missionary Union in the double seizure of their boat by Henry M. Stanley and the authorities of the Congo State, as alleged in the letter of the Rev. A. Billington, to which I have delayed responding more promptly in order that I might send you the answer of the administrator-general of the department of foreign affairs to the note which I addressed to him immediately after receiving the instruction.

I have the honor to transmit herewith the correspondence I have had with that official on the subject, which I hope will meet with your approval.

The explanations seem to be satisfactory. Mr. Van Eetvelde declares that his Government entirely disapproved of the arbitrary conduct of Mr. Stanley, and states that it is in possession of evidence which relieves its agent at Stanley Pool of the imputation of covertly favoring Stanley's project to take possession of the boat against the will of her owners.

As to the second cause of complaint, the taking possession of the *Henry Reed* by armed soldiers under the command of Captain Van Gele on her way back to Stanley Pool, Mr. Van Eetvelde explains that it was done under a misunderstanding that his Government regrets, and the consequences of which it hastened to repair. It appears, as he explains, that Captain Van Gele had previously made several voyages in the boat at times when she was in the service of the State under contract of hire; that he was ignorant of the circumstances under which the boat had been put at the service of the State, and seeing her passing Equator station under command of an officer of the Congolaise navy, he wrongfully thought himself authorized to make use of her.

It is alleged by Mr. Van Eetvelde that the governor-general, as soon as he was informed of the fact, ordered the restitution of the boat,

which was done on the 10th of August last, and that the complainants have been indemnified for the injuries which have been occasioned to them on liberal terms, including the expense of hiring for the whole period of the absence of the boat up to the day of her final surrender.

I have, etc.

LAMBERT TREE.

[Inclosure 1 in No. 289.]

Mr. Lambert Tree to the general administrator of the department of foreign affairs and of justice of the Independent State of the Congo.

LEGATION OF THE UNITED STATES,
Brussels, December 23, 1887.

SIR: In accordance with instructions from my Government, I have the honor to bring to your attention a case of flagrant wrongs which are said to have been inflicted upon the American Baptist Missionary Union, composed of American citizens, and engaged in missionary work in the Congo Free State, by officials of the State.

It appears from a letter addressed by the Rev. A. Billington, representative of the union at Stanley Pool, to the American consul at St. Paul de Loando, a copy of which I inclose herewith, that the union owns a small steamer on the waters of the Upper Congo, called the *Henry Reed*, for the purpose of conveying missionaries and their goods to its stations. That in April last Mr. Henry M. Stanley arrived at Stanley Pool and applied for the use of the steamer, but that the circumstances of the missionaries were such that they could not do as they wished; that he, Stanley, thereupon, in the most arbitrary and lawless manner, attempted to take the steamer by force, by placing an armed band at the entrance of the mission station and another at the place where the steamer was at anchor, and then sent a letter demanding the instant surrender of the steamer. In case of non-compliance his officers had orders to enforce the demand at any risk, either to Mr. Billington or those concerned; that before anything was done the chief of the station of the Congo Free State, at Stanley Pool, protested against Mr. Stanley's action in the name of the State, and the armed forces were withdrawn. The chief of the station then applied for the steamer, but the circumstances remaining unaltered the missionaries were obliged to refuse its use. That it, however, became so clear to them, from conversations and correspondence, that the steamer would be taken, that they ultimately handed her over to the authorities of the Free State, under protest, for Mr. Stanley's use for the space of forty-five days.

Thus it appears that while the chief of the station ostensibly protested against the threatened violence of Stanley, as evidenced by his posting an armed force at the entrance to the mission and another at the place where the steamer was at anchor, and his unwarranted and insolent demand for the instant surrender of the private property of these missionaries, yet it is entirely apparent, from the statement of Mr. Billington, that he aided and abetted Stanley in his lawlessness, and that these missionaries were obliged to deliver their property up to the authorities of the Free State for the use of Stanley because they could not help themselves.

But another and still more serious and flagrant wrong to these missionaries by persons connected with the Government of the Congo Free State remains to be stated.

It seems that the steamer was kept considerably beyond the forty-five days by Mr. Stanley, and then when she had been sent away by him to be returned to the owners, the American Baptist Missionary Union, she was seized before reaching Stanley Pool by another officer of the Free State.

This seizure was made at Bangala by Lieutenant Vangele. This officer, it appears, first applied for the use of the steamer of the English Baptist Mission, she being there at the time, but on being refused he at once marched twenty armed soldiers on board the *Henry Reed*. His action was protested against by some of those in charge of the steamer, but without effect, and up to the 3d of August, the date of the letter, she had not been returned to her owners.

Assuming the facts to be correctly stated, and there seems to be no present reason to doubt that they are, I desire most earnestly to remonstrate, in the name of my Government, against the arbitrary and lawless acts of interference with the enjoyment of the rights of private property by the persons connected with the Government of the Independent State of the Congo, as indicated by the circumstances I have detailed.

The Government of the United States could not fail to regard with profound regret and displeasure such abuses of the rights of any of its citizens in the Congo Free

State by officials of the State, and especially in the case of the unselfish and self-sacrificing men who, braving the dangers of climate and the privations incident to a savage and unsettled country, have posted themselves there as aids of humanity and religion. No settlers could be more valuable to the government of the new country in its efforts to spread the blessings of civilization, or are entitled to greater protection and more tender consideration at the hands of the governmental authorities, than the brave and single-minded men and women who are occupying the field of the Congo State as missionaries, and no missionaries more than these who go from America. They go from and are citizens of a country whose Government was the first to recognize the Congo flag, and which has been unfaltering in its sympathy and aid towards the establishing of a liberal and civilized government in that remote quarter of the world.

I am instructed to ask that the Government of the Independent State of the Congo will immediately take steps to cause the restoration of the steamer in question to her legitimate owners, the American Baptist Union, at Stanley Pool, and that the Government will cause a searching investigation to be made of the arbitrary acts said to have been done in this regard by the authorities of the State.

Also that a prompt and effective reparation be made for any injury done to the owners by reason of the forcible seizure of the steamer.

I avail, etc.,

LAMBERT TREE.

[Inclosure 2 in No. 289.—Translation.]

Mr. Van Eetvelde to Mr. Tree.

INDEPENDENT STATE OF THE CONGO,
DEPARTMENT OF FOREIGN AFFAIRS,
Brussels, December 31, 1887.

Mr. MINISTER: You have kindly, in your letter of the 23d of this month, addressed me a complaint of which your Government had been notified by missionaries of the American Baptist Missionary Union, concerning the detention in the waters of the Congo of their boat, the *Henry Reed*.

I hope by some explanations to be able to show in some measure, Mr. Minister, that the facts to which you call my attention constitute much less a well-founded point of grievance against my Government, as they were produced under circumstances entirely exceptional, and as the injury to which they gave rise has been already repaired to the satisfaction of the complainants.

It will not be useless to recall, in the first instance, that Mr. Stanley undertook his last journey to Africa, not as representing the State of the Congo, but as chief of an expedition organized by an English committee with a view of carrying succor to Emin Pasha, whose position in the Soudan had awakened the sympathies of the civilized world.

By reason of the philanthropic and urgent character of his mission, the explorer had the right to count on the active co-operation of our authorities. Thus you will not be surprised, Mr. Minister, that when on its arrival at Stanley Pool the expedition found itself in the face of difficulties, the commissaire of the district, Mr. Liebrechts, felt himself obliged to lend his good offices. And these difficulties were grave—a famine reigned in the district. The provisions there scarcely sufficed for the ordinary needs of the population, and the only means of saving a disaster to the numerous caravan of Mr. Stanley—nearly a thousand men—was to put him in the way of continuing sooner his journey. In the presence of this situation, Mr. Stanley was obliged to endeavor to procure all the means of transport then available at the Pool.

No aid was refused to him; the Baptist Mission alone did not accord the use of its boat, although its refusal was of a nature to put in danger numerous human lives and to compromise the fate of the enterprise. Perhaps in view of this consideration it is permitted to judge with less rigor the arbitrary proceedings to which your countryman had instant recourse in order to arrive at his ends. My Government does not for an instant approve them, nor still less share the responsibility. Its agent, far from having favored or tolerated them, put an end to them as soon as they had been brought to his knowledge. On this point we have the satisfactory testimony of the complainants themselves.

The matter was finished by a contract signed at the intervention of the authority according the use of the boat for a term of forty-five days. Mr. Billington claims, it is true, now, to have subscribed to this act only because of the ambiguous attitude of the commissaire of the district, and in order to avoid graver disagreements.

My Government believes itself justified in repelling the imputation with which this functionary is charged. His conduct, in my opinion, has been what it should have been, frank, benevolent, and dictated by the sole desire to conciliate individual conveniences with the necessities of a difficult situation; that it had no other character appears from the letter even of Mr. Billington, of which I herewith annex a copy, making known to the authority his determination to cede the *Henry Reed*. And besides, would it be permitted to suppose for a single moment that missionaries would have taken with bad grace and under protest a resolution to which was attached the success of an enterprise which by its humanitarian end responds so well to their own aspirations, and on which certainly depended the existence not only of the column of Mr. Stanley, but also that of all the inhabitants of the district? My Government does not think so.

As to the second fact that you have described to me, the detention of the same boat by the orders of Captain Van Gele, it is the result of a misunderstanding that my Government regrets and of which it has hastened to repair the consequences.

The *Henry Reed* had been previously hired to the State. Mr. Van Gele had used her to accomplish several voyages of exploration. He was ignorant of the new conditions on which the boat had been placed at the disposition of the State, and seeing her passing Equator Station under the command of an officer of our Navy, he wrongly thought himself authorized to make use of her. The governor-general, as soon as he was informed of the fact, ordered the restitution of the boat; which was done the 10th of August last, as is attested by the acknowledgment of the surrender, which was signed the same day.

I will add, Mr. Minister, that the complainants have been indemnified for the injuries which have been occasioned to them, the expense of hiring having been liquidated on the liberal conditions of the agreement for the whole period of the absence of the boat up to the day of her final surrender.

The explanations into which I have just entered indicate, Mr. Minister, that the State of the Congo is conscious of the duties incumbent upon it with the respect to every enterprise for the advance of civilization.

I can give the assurance that it will not fail in its task, that it will not forget the sympathies which have been expressed to it by the United States at the time of its foundation, and that it will continue, as in the past, to surround with its solicitude the works of missionaries. They, on their side, should not forget that it is not possible for them to serve more efficiently their noble cause than by giving to the State a loyal concurrence, and in co-operating in works which tend to the progress of civilization.

They know, for the rest, that if they believe themselves injured, it belongs to justice to state their grievance, and that they will find always in the tribunals of the State the protection to which they have the right.

Please accept, etc.,

The general administrator of the department of foreign affairs,

EDM. VAN EETVELDE.

[Inclosure 3 in No. 289.]

Mr. Billington to Lieutenant Liebrechts, April 24, 1887.

AMERICAN BAPTIST MISSIONARY UNION,
Stanley Pool, April 24, 1887.

DEAR SIR: Judging from our conversation of last evening it is evident that there was a misunderstanding in our letters of yesterday.

I now write to say that owing to the present very peculiar circumstances I have decided to assume responsibilities and powers I do not really possess, and hand over to the Congo Free State the steamer *Henry Reed*, in accordance with a mutual agreement to be drawn up and signed on the morrow.

It appears to me only just and right that our society would be in some way protected in case of the loss of the steamer, and I ask you again to do your best to obtain the guaranty mentioned yesterday.

Should you still fail in this matter the arrangement aforementioned will of course still go forward.

If you will appoint a time on the morrow I will call on you, or you may prefer to call here.

Believe me, etc.,

A. BILLINGTON.

[Inclosure 4 in No. 289.]

Mr. Lambert Tree to the general administrator of foreign affairs and of justice, of the Independent State of the Congo.

LEGATION OF THE UNITED STATES,
Brussels, January 5, 1888.

SIR: I have the honor to acknowledge the reception of your esteemed note of the 31st ultimo which I have carefully read.

No purpose, however philanthropic or praiseworthy, which Mr. Stanley had in view, as the commandant of a private enterprise, could justify or excuse his arbitrary and violent acts in attempting, with the aid of an armed force, to seize and appropriate the private property of persons, without their consent, which he found within the limits of the Congo Free State, and I felt confident that the Government of the State would strongly disapprove of such conduct.

I am glad to know that your Government is in possession of evidence which relieves its agent at Stanley Pool from the imputation of covertly favoring Stanley's project to take possession of the boat against the will of her owners.

I feel assured that my Government will learn with sincere satisfaction and pleasure that the subsequent seizure of the boat by Lieutenant Van Gele was made under a misapprehension as to her having been hired by the State, and that she was still in its service; that the Government of the State, as soon as it learned of the fact, ordered her restitution to the owners, which was done; and that the complainants have been liberally indemnified for the injury which had been occasioned to them.

I profit, etc.,

LAMBERT TREE.

No. 30.

Mr. Tree to Mr. Bayard.

No. 294.] LEGATION OF THE UNITED STATES,
Brussels, January 16, 1888. (Received, January 30.)

SIR: Referring to your No. 92 of the 19th ultimo, relative to the decree of the sovereign of the Independent State of the Congo of the 30th of April last, concerning the display of the flag of that State on foreign vessels, I have the honor to transmit herewith a copy of my note of the 9th instant, addressed to Mr. Van Eetvelde, the general administrator of foreign affairs.

In making a representation and protest on the subject, I did not see how I could better do so than by following generally the reasoning and language of the instruction.

With regard to the steamer *Henry Reed*, as her case is covered by the principles laid down in the instruction and is within the terms of the protest, if she is an American owned vessel, I have not deemed it necessary to make any allusion to her in this connection.

I have, etc.,

LAMBERT TREE.

[Inclosure in No. 294.]

Mr. Lambert Tree to Mr. Edmund Van Eetvelde.

LEGATION OF THE UNITED STATES,
Brussels, January 9, 1888.

SIR: Under instructions from my Government I have the honor to invite your attention to the second article of the decree of His Majesty, the soverign of the Independent State of the Congo, on the subject of the use of flags, bearing date the 30th of April, 1887, and published in the official bulletin, No. 5 (May, 1887).

As this article is understood it decrees that every private vessel navigating the waters of the Independent State of the Congo up the stream beyond the falls of Leopoldville, will be required to hoist at the stern the flag of the State, and that if the vessel possesses ship's papers establishing her nationality she may in addition fly the flag of her country.

By the second article of the general act of the Berlin conference all flags, without distinction of nationality, are secured in the right to have free access to all the waters of the Congo and its affluents, including the lakes, and to all the canals that in the future may be cut with the object of uniting the water-courses or the lakes confined in the whole extent of the territories described in article 1 of that instrument; and while the Government of the United States is not a party to that convention, yet the peaceful use of the benefits offered by the Congo Free State to the world at large are shared by their vessels and their citizens.

The commerce of the Congo Free State being thus freely opened, the American vessel, viewed as a vehicle of transit, may be either a registered vessel of the merchant marine of the United States, or an unregistered vessel owned by citizens of the United States, without affecting, it is insisted, her enjoyment of the guarantied privilege of navigation. In either case she has the right to fly the flag of the United States.

My Government holds it to be a settled principle of international law that ships not only are entitled to carry wherever they go the flag of the country of which their owners are citizens, but that it is their duty, as a rule, to carry such flag.

The principle stated, however, would be directly antagonized by a rule that vessels navigating the rivers of a particular State when such rivers are open, as in this case, to foreign navigation, should carry the flag of that state.

This appears to be the purport of article 2 of the royal decree of the 30th of April, 1887.

Its effect is to substitute the flag of the Congo Free State for the national flag of the vessel, by requiring the flag of the State to be displayed at the stern, as it is evident that the flags of the two nations could not both fly from the same staff, or from the same gaff. To do this would be under some circumstances, at least, to denote that the vessel was a prize to the nationality whose colors were uppermost.

I understand it to be the universal usage that the flag carried on a gaff at the flagstaff at the stern, is the flag of the vessel's nationality.

The last clause of article 2 of the decree of April 30 implies the assertion of a right on the part of the authorities of the Congo State to determine the sufficiency of the vessel's title to fly her national flag by making it depend on the possession of papers establishing her nationality.

It is maintained by my Government that it is the province of each Government to determine for itself the conditions for the use of its flag upon its vessels, and the United States rule is, that vessels bona fide owned by citizens of the United States are entitled when abroad to carry the flag of the United States, irrespective of the question of the papers they may have on board.

I am therefore instructed by my Government to protest against the application of article 2, of the royal decree of April 30, 1887, to vessels owned by citizens of the United States.

First. In requiring such vessels to fly the flag of the Independent State of the Congo at the stern. The right to require such vessels to hoist the flag of any other nationality than their own is denied.

Second. In making the right to carry a national flag on such vessels dependent upon the possession of papers on board establishing nationality.

I avail myself, etc.,

LAMBERT TREE.

No. 31.

Mr. Bayard to Mr. Tree.

[Extract.]

No. 96.] DEPARTMENT OF STATE,
Washington, January 26, 1888.

SIR: Your dispatch (No. 289) of the 6th instant, reporting your action under my instruction (No. 90) of the 7th ultimo, relative to the alleged

wrongs inflicted on the American Baptist Missionary Union by Mr. Henry M. Stanley and the Congo State authorities, has been received.

Your report of the restitution of the steamer and indemnification of the owners has been read with satisfaction.

I am, etc.,

T. F. BAYARD.

No. 32.

Mr. Bayard to Mr. Tree.

No. 97.] DEPARTMENT OF STATE,
Washington, January 30, 1888.

SIR: I inclose herewith a copy of a letter to this Department from the Secretary of the Treasury relative to pieces of metal known as "spiel marks," representing closely in size, color, and partly in design the several gold coins of the United States, which are imported from Belgium, and also relative to imitations of coins, postage-stamps, and other obligations of foreign governments and our own, likewise imported from Germany, all of which, it is alleged, are used for fraudulent purposes.

I will thank you to make inquiry in the proper quarter as to whether the laws of Belgium prohibit the manufacture of the articles described in the Treasury Department letter, and to report the result of your inquiries to this Department.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 97.]

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT,
January 21, 1888.

SIR: I have the honor to transmit herewith a copy of a letter, dated the 18th instant, from Mr. J. J. Brooks, chief of the Secret Service of this Department, in which he states that there are imported from Germany pieces of metal, representing closely in size, color, and partly in design, the several gold coins of the United States, which are known as "spiel marks," and which, as alleged, are extensively used to cheat ignorant persons under the pretense that they are the gold coins of the United States; and also that imitations of coins, postage-stamps, and other obligations of foreign governments and of our own, in full size, and in miniature, and of exact appearance of genuine issues are imported, and that their importation leads to great abuse and injury.

Mr. Brooks states that the "spiel marks" are manufactured by one J. C. Laurer, of Nuremberg, Germany, and that the imitations of coins, postage-stamps, and other obligations of foreign governments and our own, are manufactured by J. B. Molus at Brussels, Belgium; Dr. Alfred Mosch Kan, at Leipsic, and Kramp & Co., at Offenbach, Germany.

You will notice that Mr. Brooks states that his object in communicating these facts is to seek to obtain the protection of foreign governments for our citizens from such acts on the part of persons under their control which, if performed in the United States, would be adjudged illegal.

The matter is referred to you for such action as you may deem proper.

C. S. FAIRCHILD,
Secretary.

[Inclosure 2 in No. 97.]

Mr. Brooks to Mr. Fairchild.

U. S. TREASURY DEPARTMENT,
SECRET SERVICE DIVISION, OFFICE OF CHIEF,
Washington, D. C., January 18, 1888.

SIR: I have the honor to submit for your consideration the following facts:

First. There are imported from Germany pieces of metal representing closely in size, color, and partly in design the several gold coins of the United States. They are known as "spiel marks," and are said to be used as evidences of value in gambling transactions, but are really extensively used to cheat ignorant persons under pretense that they are the gold coins of the United States. This fraud has been practiced to my personal knowledge for ten years past, and has proved a serious loss to poor people. I am informed the manufacturer of the so-called coins is J. C. Laurer, Nuremberg, Germany.

Secondly. There are imported into this country imitations of coins, postage-stamps, and other obligations of foreign governments and of our own, in full size and in miniature, and of exact appearance of genuine issues. The manufacturers of some of these reproductions, which are prohibited in this country except by special authority, are as follows: J. B. Molus, 42 Rue Florence, Brussels, Belgium; Dr. Alfred Mosch Kan, Leipsic, and Kramp & Co., Offenbach, Germany. I do not charge counterfeiting against any of the firms named, but simply request attention to their practice of imitating representatives of values, ostensibly under the honest plea for adornment as curios, but which in its abuse is constantly leading to serious consequences. Experience brands the practice as a vicious one, full of evil suggestions, and should be suppressed.

The laws enacted by the Congress of the United States afford full protection to foreign governments against the counterfeiting of foreign coins and obligations in this country, and the purpose of the undersigned in this communication is to seek to obtain like protection of foreign governments for our citizens from such acts on the part of their citizens, which, if performed in the United States, would be adjudged illegal. Failing in preventing the manufacture abroad of the articles referred to herein, I respectfully suggest that steps be taken to prohibit their importation.

Respectfully, yours,

JAMES J. BROOKS,
Chief.

No. 33.

Mr. Tree to Mr. Bayard.

[Extract.]

No. 305.] LEGATION OF THE UNITED STATES,
Brussels, February, 11, 1888. (Received February 25.)

SIR: Referring to my number 294 in which I inclosed a copy of my note of the 9th ultimo addressed to Mr. van Eetvelde, relative to the decree of the 30th of April last, requiring foreign vessels on the Congo River to hoist the flag of the Congo State, I have now the honor to transmit herewith the answer of Mr. van Eetvelde to my note and my rejoinder thereto.

It will be observed that Mr. van Eetvelde discusses the question as if the Congo was *territorial* water, under the exclusive jurisdiction of the State, instead of being as free to the commerce of the world as the sea, subject only to police regulations with reference to public order and public health.

I have, etc.,

LAMBERT TREE.

[Inclosure 1 in No. 305.—Translation.]

Mr. van Eetvelde to Mr. Tree.

INDEPENDENT STATE OF THE CONGO,
DEPARTMENT OF FOREIGN AFFAIRS,
Brussels, January 28, 1888.

MR. MINISTER: The communication that you have done me the honor to address me the 9th of this month concerns a decree made the 30th of April last, by the terms of which every vessel navigating in the Superior Congo is required to hoist the flag of the State, with the privilege, if she possesses ships' papers establishing her foreign nationality, to hoist in addition the flag of her country.

The Government of the United States sees in this measure a double infringement of the law of nations, no vessel, according to it, being obliged to carry any other flag than its own, and not being obliged to justify its nationality by ships' papers.

You kindly recall on this occasion that the general act of the Berlin conference opens to vessels of every nationality free acess to the Congo and its affluents. It is true, Mr. Minister, that by admitting all nations to subscribe to the general act the conference has intended to exclude no one from the advantages that it consecrates, and it enters into the desires of my Government to see the citizens of the United States profit by them in the greatest measure.

I do not think, however, that the decree of the 30th of April last can in any way trammel the free exercise of navigation in the waters of the Congo. It has been inspired, on the contrary, by quite different purposes; in stipulating that all vessels, without distinction, should in these latitudes little frequented display a flag recognized and respected by the natives, it is designed, in effect, as much to guard these vessels against any act of hostility as to strengthen toward the people still savage the prestige of a power which is one of the principal guardians of the work of the conference and which will be all the more able to protect the operations of commerce, that its authority is strong and uncontested. In this double manner the decree serves the interest of the liberty of navigation.

In taking this measure the Government of the Congo does not believe that it has overpassed the rights of police which belong to it in its territorial waters. It is a principle of international law, universally recognized to-day and consecrated by numerous precedents, that a foreign vessel, in all that touches public interest and public order, is submitted to the laws of the state where it is found, only interior matters and discipline on board escaping the jurisdiction of local justice. But I have shown that the decree is inspired by the most evident necessities, and protects the security even of navigation. Under these conditions, does it not justify itself so much the more that it neither makes any attempt against private interests nor the dignity of foreign navigators, since it happens every day that vessels of commerce and others hoist by simple courtesy another flag than theirs? My Government esteems that there can be no inconvenience in floating the colors of the two countries, the one at the side of the other; if, however, contrary to our thought, this exterior disposition of flags could be of a nature to awaken susceptibilities, the adoption of any modifications would not be refused which, in giving on this point satisfaction to your Government, would be to our mind compatible with the object of the measure.

The second objection that you have kindly addressed to me concerns the obligation which is imposed implicitly by the decree on foreign vessels to prove their nationality by ships' papers. I do not think, Mr. Minister, that this obligation is contrary in any respect to international usages. Without doubt it belongs to each country to fix the limits which suit it for conferring its nationality on vessels, but everywhere where the sovereignty of another power is exercised, and where in consequence the obligatory force of foreign laws ceases, this privilege is limited by that of the law of nations which accords to this power to determine on its side the conditions on which it recognizes the nationality of these vessels in its territorial waters. It is not only the theoretical rule which permits the State of the Congo to act as it has done; the general practice sanctions the principle that requires every vessel to justify its nationality by regular documents. This is so true that no vessel would be advised to go to sea without being furnished with them, as if she were unprovided with them she would be exposed in time of war to be declared fair prize, and as on her arrival in a foreign port she is required to present them for visé to the authority. The American law itself exacts that the papers should be deposited with the consul. The interest of nations and the care of their own neutrality command, besides, that a vessel without official attestation can avail itself of the protection of no flag.

I hope, Mr. Minister, that on this question a simple misunderstanding separates us, and that at bottom the manner in which your Government sees it does not differ from that which I have just exposed. I read, in fact, in an official publication issuing from

the department of foreign affairs * at Washington, that, according to the laws of Congress, the right to carry the American flag can only belong in practice to vessels registered at a custom-house. That is to say that by the fact itself of registry ships' papers are obtained. The work which I have just cited adds that foreign tribunals would not be required to recognize certificates of American property delivered by the consul to vessels of foreign construction.

Permit me to recall also that international acts to which the Government of the United States is a party consecrate the obligation for a vessel to justify her nationality by ships' papers. In the presence of these dispositions which animate our two Governments I can not prevent myself from regretting, Mr. Minister, that the terms of the decree of the 30th of April last have been able to give birth to a doubt as to their real meaning.

My Government does not seek, in fact, to interfere in the delivery of these papers nor to dictate the conditions upon which such delivery should be subordinated; it is too penetrated with respect for the rights of the powers and too convinced that they would respect its own to raise this pretention. All that is desired is to prevent the abusive use of foreign flags, and on this point an accordance of views appear to exist between us; it is that vessels establish by a regular document that they are the property of foreign citizens and authorized as such to hoist the colors of their country.

I desire to add, Mr. Minister, that on this question, as on all others that could arise between the two countries, my Government will always be happy to accord to the one that you represent all the satisfaction reconcilable with the interest which it protects.

It has it at heart to recognize by its friendly action the fruitful support that the Government of the United States lent to it at the time of its foundation, and it will know how, being inspired with a duty of gratitude, to testify its solicitude to the enterprises in which the citizens of the United States will take the initiative in its territories. It likes to believe, on its side, that the Government of the United States will not cease to encourage it with its sympathies and that on the present occasion it would kindly re-enforce, by its moral support, the authority of which the young state has need in order to assure the success of its civilizing and philanthropic work.

Please accept, Mr. Minister, the assurances, etc.,

The administrator general of the department of foreign affairs.

EDM. VAN EETVELDE.

[Inclosure 2 in No. 305.]

Mr. Tree to Mr. van Eetvelde.

LEGATION OF THE UNITED STATES,
Brussels, February 4, 1888.

SIR: I have the honor to acknowledge the reception of your esteemed note of the 28th ultimo, which I have read with interest.

You therein confirm what I supposed would be the case, that your Government and mine are in entire accord on the point that the general act of the Berlin Conference opens to the flag of all nationalities, without distinction, free access to the navigation of the Congo and its affluents, whether parties to the convention or not.

We equally agree on the general principle that the enforcement by the state through which a free river flows of police regulations, with a view to the preservation of public order and the protection of public health within its territories, is not inconsistent with the enjoyment of the free use of the river for the purposes of navigation, trade, and commerce. I am not able to see, however, that the demand on the part of such state that foreign vessels traversing free waters shall display the flag of the state, or that the authorities of the state may properly exercise the right of deciding upon the sufficiency of the papers on board establishing the vessel's nationality as a prerequisite to her flying another flag than that of the riparian state, is in any sense a police regulation. If this demand is founded on law, the principle in this instance must be sought for elsewhere than in the right to make and enforce police regulations.

Nor am I prepared to admit, while fully recognizing the benevolent and kindly motives which actuate the authorities of the state, that the freedom of navigation of the waters of the Congo is assured, when the undisturbed enjoyment of this right can be obtained for foreign vessels only on the condition of flying the flag recognized or respected by the people of the riparian state. It is possible that such vessels might

* Regulations prescribed for the use of the consular service of the United States, article 226, Washington, 1874.

be more free from danger; but if they are obliged, for any reason, to conceal their own flag or hoist the colors of the riparian state as a condition to the navigation of these waters, dedicated to the free commerce of the world, it is evident that the navigation would not be free in point of fact, no matter whether all nations, without distinction, were subjected to the same terms.

It is quite true that it happens every day that foreign vessels hoist at the foremast, as a matter of courtesy, the flag of the nation whose ports they are entering or departing from, but I believe it will scarcely be seriously contended that the extension of a courtesy, for however long a period it may have been practiced, constitutes a sufficient basis for the assertion of an absolute right.

So far as the question of law is concerned, it being conceded that the Congo River and its affluents are free waters, and open to the commerce of the world without distinction of flag, it seems to me it must inevitably follow that wherever a vessel may go, she may carry the flag of the nationality of which her owners are citizens, and that she is not bound to carry any other flag. Indeed, as a general rule, the display of the flags of two different nations on the same vessel renders her liable to suspicion, and even puts in doubt her nationality. This principle is not in conflict with municipal laws requiring the display of quarantine flags, pilot ensigns, etc., which do not claim to be flags of nationality.

I regret that I am not able to concur with you on the question raised as to the right of your Government to determine upon the sufficiency of the papers on board of a vessel to establish its nationality.

There could be no better illustration of the danger of the exercise of such power by the authorities of one state over the vessels of another than that which is furnished in your own communication, to which I am now having the honor to respond.

You have therein kindly called my attention to section 226 of the Consular Regulations of the United States of 1874, as evidence that only vessels registered at a custom-house may carry the American flag.

It is quite natural for foreigners to fall into error in construing the meaning and effect of the local regulations of another country, because they can not be expected to be familiar with the history of such regulations, the circumstances which precede their adoption, or the purposes to be subserved in controlling or directing the agents of the Government.

Without entering into any explanation at length of the section of the Consular Regulations to which you have referred, I present to you at once the best evidence possible that you have misapprehended the section you have quoted, intended, as it was chiefly, to put a stop to the practice which had grown up with our consuls of issuing certificates of ownership to vessels—a practice clearly unauthorized by law.

That you have misapprehended its scope, you will readily see from the terms of sections 338 and 339, to be found in the Consular Regulations of the United States of 1881, at page 54.

The sections referred to read as follows:

"SEC. 338. The right of American citizens to acquire property in foreign ships has been held to be a natural right independent of statutory law, and such property is no more nor less entitled to protection by the United States than any other property of an American citizen.

"SEC. 339. The existing general regulations of the Treasury Department, under customs and navigations laws (Customs Regulations of 1874), recognize the right of property in vessels of this character, and declare them to be entitled *to the protection of the authorities and to the flag of the United States, although no register, enrollment, license, or other marine document prescribed by the laws of the United States can lawfully be issued to such vessels, whether they are American or foreign built.*

"The former practice of issuing sea-letters in the case of the purchase abroad of American or foreign vessels by citizens of the United States is no longer authorized and will not be permitted."

I have already explained, in my communication of the 9th ultimo, that American vessels may be either registered or unregistered.

A registered vessel is one which is built in the United States and wholly owned by citizens thereof.

An unregistered vessel is one not built in the United States, but wholly owned by citizens thereof.

While registered vessels, with the view of encouraging ship-building, are entitled to certain privileges and exemptions not extended to unregistered vessels, both are nevertheless entitled to carry the American flag, and to claim the protection of the Government.

The registration of vessels is a matter of local or municipal regulation, differing in different countries. I am not aware of any rule of international law which requires a ship to have a register, or any other document expressive of her national character. She may plow through the sea and other free waters of the world without the possession of any such papers, and can not be lawfully disturbed, so long as she is en-

gaged in peaceful pursuits and molests no one. The flag which she carries is the symbol of her nationality, and it is *prima facie* evidence to the world of the national character of her owners, just as a register, sea-letter, or other document is. True ownership of a vessel is a matter *in pais*, to be proved like any other fact. It may be shown by a bill of sale, the ordinary instrument used for the purpose of transferring property in a ship, or, in the absence of a bill of sale, it may be shown by parol testimony.

On the other hand, as the national flag is *prima facie* evidence in free waters that the nationality of the ships carrying it corresponds to that of the flag, so, under well established principles of law, if a vessel is navigating under the flag of a foreign country she is to be considered as bearing the national character of the country under whose flag she sails. She marks a part of its navigation, and is in every respect liable to be considered as a vessel of the country.

Thus it is apparent under the rules of law that, if the decree of the 30th of April requiring vessels to hoist the flag of the Congo State is enforced, it invests the authorities of the state with the power of making a *prima facie* transfer of foreign vessels, without the consent of the owners, to the marine of the Congo State. I am not able to find any warrant in the law for the exercise of such a power by the state.

While my Government watches with the deepest interest and sympathy the progress which is being steadily made by the royal and illustrious founder of the independent State of the Congo, in giving to that land the blessings of civilized government, and fully appreciates that the Government which he guides has the loftiest purposes in view, and fosters no aims which are not conceived with the intention of advancing the highest ends of good government, it yet esteems it a duty that it should not, by its silence, seem to assent to a proposal to inflict a fine on an American vessel which fails to hoist a foreign flag on waters which, without distinction, are free to the flags of the world.

I avail myself, etc.,

LAMBERT TREE.

No. 34.

Mr. Tree to Mr. Bayard.

[Extract.]

No. 318.] LEGATION OF THE UNITED STATES,
Brussels, March 17, 1888. (Received April 2.)

SIR: On Monday, Tuesday, and Wednesday of last week subscriptions were received for an issue of one hundred thousand bonds of 100 francs each of the loan of the Independent State of the Congo. This is a part of the sum of 150,000,000 of francs authorized to be borrowed by a recent royal decree, published in the last number of the Official Bulletin. The price fixed for the bonds was 83 francs each. They draw no regular interest, but each bond bears a number, and there will be six drawings annually. During the first period of eight years twenty-four bonds will be annually drawn by lot, one of which brings a prize of 200,000 francs, and five others 150,000 francs each. The other eighteen yield from 1,000 to 5,000 francs. In the next period the prizes are of reduced value. A plan of redemption is also arranged, so regulated that all of the bonds are to be paid off at the end of a century. In the first year, for example, fifteen hundred bonds will be redeemed at 105 francs each; in the second, a certain number at 110 francs, adding each year 5 francs to a bond.

The scheme seems to be a very clever one for the state, which, by the plan adopted, is enabled to borrow the money at something like 2 per cent. per annum. A portion of the money is invested as a sinking fund, and will be permitted to compound. In the mean time the state is put in possession of the ready cash it so much needs.

The result of the offerings of the first one hundred thousand bonds has been very flattering to the state. One hundred and eighteen thousand

were subscribed for in three days, or eighteen thousand more than were offered for sale.

The secret of the success of the loan is undoubtedly largely due to its lottery feature, which presents the temptation of possibly gaining a large prize.

I presume that, now that the Congo Government has felt the public pulse as to the degree of cordiality with which its bonds would be welcomed, it will continue to launch other installments upon the market until the whole sum authorized to be borrowed shall have been taken up.

I have, etc.,

LAMBERT TREE.

No. 35.

Mr. Tree to Mr. Bayard.

LEGATION OF THE UNITED STATES,
No. 321.] *Brussels, March* 30, 1888. (Received April 9.)

SIR: Referring to your No. 97, of the 30th of January last, relative to the imitation by persons in Belgium of gold coins of the United States, and of postage-stamps and obligations of foreign governments and our own, I have the honor to transmit herewith the correspondence had with the Belgian minister of foreign affairs on the subject.

The question upon which information was asked of the Government, that is, as to whether the laws of Belgium prohibit the manufacture of the species of imitations described in the letter of the Secretary of the Treasury, it will be observed, is not directly answered in the note of the Prince de Chimay.

As far as I can learn from other sources, there is no law on the subject in Belgium. I submitted the question to Mr. Devolder, present minister of the interior and of public instruction and, until within a few months, minister of justice, on one occasion, when in conversation with him, and he told me that he knew of no law of the kind here, although he admitted that such a law ought to exist.

I will not fail to promptly transmit any further information which I may receive on the subject through the foreign office.

I have, etc.,

LAMBERT TREE.

[Inclosure 1 in No. 321.]

Mr. Tree to the Prince de Chimay.

LEGATION OF THE UNITED STATES,
Brussels, February 14, 1888.

YOUR EXCELLENCY: I have the honor to inclose herewith a copy of a letter from the Secretary of the Treasury to the Secretary of State, relative to the importation to the United States by certain persons resident in Germany and Belgium, of pieces of metal, resembling closely in size, color, and partly in design, the several gold coins of the United States; also imitations of other coins, postage-stamps, and other obligations of foreign governments, as well as that of the United States, in full size and in miniature, and of the exact appearance of genuine issues.

It appears from the letter of the Secretary of the Treasury that the importation of these imitations of coin, postage-stamps, obligations, and other representatives of valuable things has led to great abuses, and especially that many ignorant persons are thereby defrauded.

In the United States the fabrication of such articles by persons resident therein would be adjudged illegal.

I would be greatly obliged if your excellency would kindly inform me whether the laws of Belgium prohibit the manufacture of the articles described in the letter of the Secretary of the Treasury, in order that I may acquaint my Government with the state of the law here.

Thanking your excellency in advance, I equally avail myself, etc.,

LAMBERT TREE.

[Inclosure 2 in No. 321. Translation.]

The Prince de Chimay to Mr. Tree.

MINISTRY OF FOREIGN AFFAIRS,
Brussels, March 29, 1888.

Mr. MINISTER: I have the honor to acknowledge the reception of your dispatch of the 14th of February last, relative to the counterfeiting of postage-stamps, bank-bills, and American moneys.

The question has been brought to the attention of the competent authorities in Belgium, and I will not fail to keep you advised of any facts which may be stated by the said authorities.

Accept, Mr. Minister, etc.

LE PRINCE DE CHIMAY.

No. 36.

Mr. Lambert Tree to Mr. Bayard.

No. 331.] LEGATION OF THE UNITED STATES,
Brussels, May 11, 1888. (Received May 21.)

SIR: Again referring to your No. 97, of the 30th of January last, relative to the imitation by persons in Belgium of gold coins of the United States and of postage stamps, etc., I have the honor to transmit herewith a copy of a *projet* of law presented by the Government here to the Chamber of Representatives, and also the *exposé des motifs* * accompanying it, which is signed by the minister of justice.

It appears to be true, as I surmised in my No. 321, that no law at present exists on the subject, and the *projet* now offered in the Chamber is intended to cure omissions in legislation and to remedy the evils of which the Secretary of the Treasury complains in his letter to you of the 21st of January last, a copy of which was inclosed in your number 97.

The proposed Belgian law seems to prohibit most of the imitations to which attention has been directed by the Secretary of the Treasury.

I am not aware of any opposition in Parliament to the passage of such a law, and think it altogether probable that the *projet* herewith inclosed will be adopted without modification.

It is barely possible that it may not be reached at this session, which will terminate about the 15th of this month. If not, there is no doubt that it will be next winter. If it becomes a law at this session I will not fail to advise you of the fact.

I have, etc.,

LAMBERT TREE.

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* Not published.

No. 37.

Mr. Tree to Mr. Bayard.

No. 359.] LEGATION OF THE UNITED STATES.
Brussels, June 30, 1888. (Received July 16.)

SIR: As the money coined and put in circulation by a new state has, perhaps, a certain interest, I have ventured to send you to-day by post, under a separate cover, specimens of the first moneys ever coined by the Independent State of the Congo.

The package contains specimens of pieces of a half franc, and of 1, 2, and 5 francs in silver, and of 1, 2, 5, and 10 centimes in copper. No gold pieces have been coined as yet.

I have, etc.,

LAMBERT TREE.

No. 38.

Mr. Tree to Mr. Bayard.

No. 387.] LEGATION OF THE UNITED STATES,
Brussels, September 25, 1888. (Received October 8.)

SIR: I received yesterday a letter from the Belgian minister of foreign affairs, informing me that the King would receive me at the palace of Brussels to-day at 11 o'clock.

At the hour named the court carriages were sent to the legation and I was called upon by Major General, the Count Van der Straten-Ponthos, an aid-de camp of the King, who accompanied me to the palace. I was immediately received by the King.

As I have heretofore explained in my dispatch reporting my audience with the King at the time of presenting my letter of credence as minister resident, the usage does not prevail here as at other courts of making a formal address on such occasions, but I thought it was a proper moment to say something to His Majesty on the delivery of the letter of the President, accrediting a representative of a higher rank to Belgium from the United States, which had maintained a mission at Brussels almost ever since the birth of the Kingdom, in fact, with one or two exceptions, the most venerable mission to the court. I therefore said to the King, that Congress having raised the rank of the diplomatic representative of the Government of the United States near His Majesty to that of envoy, the President had done me the distinguished honor to accredit me in the new quality. That it was scarcely necessary for me to assure His Majesty that while I remained in charge of the mission it would be my duty as it would also be my great pleasure hereafter, as in the past, to cultivate and strengthen to the utmost of my power the friendly relations which have always subsisted between Belgium and the United States. That I could not refrain from referring to the fact that it had been more than fifty-six years since the establishment of the mission by my Government which I now had the honor to be intrusted with near His Majesty, and that I believed that neither the archives of His Majesty's Government nor those of the American legation here would show a single circumstance to have occurred tending to mar the flow of friendly feeling between the two countries. That, on the other hand, much had taken place upon which the mind might dwell with great satisfaction. The vastly increased commerce between the coun-

tries, the establishment of steam-ship lines connecting the ports of New York and Philadelphia with the port of Antwerp, and that great act the freedom of the navigation of the Scheldt, were among the prominent events which mark the period covered since 1832, when the United States first sent a diplomatic representative to reside near this court. That in delivering to His Majesty the letter accrediting me in the character of envoy extraordinary and minister plenipotentiary near His Majesty, I dared to express the hope and belief that the commercial and friendly relations between the two countries would continue to grow in strength to the mutual benefit of both nations.

The King in reply expressed his great pleasure that Congress had raised the mission of the United States to Belgium to the higher rank of envoy; that what I had said with reference to the relations between the two countries for nearly sixty years was quite true, and he hoped the same thing could be said of them to the remotest future. He spoke in exalted terms of the United States, and said he hoped some day to make them a visit, where there was so much to be seen to expand the views of Europeans. He was also pleased to say some very kind things to me personally.

After he had finished his formal reply, he detained me for nearly a half hour in conversation, and, I thought, endeavored to show me in every way his gratification that the grade of the mission of the United States at Brussels had been raised.

At the issue of the audience I was reconducted to my residence with the same ceremony, accompanied by the aid-de-camp of the King.

I should not omit to mention that the King came to Brussels only last evening, from Ostend, where he has been staying for some time.

I have, etc.,

LAMBERT TREE.

CORRESPONDENCE WITH THE LEGATION OF BELGIUM AT WASHINGTON.

No. 39.

Count d'Arschot to Mr. Bayard.

[Translation.]

LEGATION OF BELGIUM,
Washington, July 12, 1887. (Received July 14.)

Mr. SECRETARY OF STATE: I have the honor to bring to the knowledge of your excellency that a great international exhibition of sciences and industry will open at Brussels next year in the month of May.

As the result of private effort this enterprise has obtained the high patronage of the royal government and of the city of Brussels. The object of the committee of organization is to direct the spirit of investigation and perfection in the search for means which will lead directly to better and cheaper production.

Your excellency will find inclosed a copy of the general regulations, and I venture to hope that you will give to this enterprise the aid of your distinguished patronage in having it made known through the press.

I avail myself, etc.,

CTE. G. D'ARSCHOT.

No. 40.

Mr. Bayard to Count d'Arschot.

DEPARTMENT OF STATE,
Washington, July 29, 1887.

SIR: I have the honor to acknowledge the receipt of your note of the 12th instant, in which you notify this Department that an international exhibition will be held at Brussels next year. As the undertaking is one of interest to the American people, publicity has been given to it through the public press.

It is observed by section 8 of article 1 of the general regulations that foreign commissioners are contemplated to take part in the installation of the exhibition. A commission on behalf of this country could only be appointed in virtue of provision made therefor by Congress, which, however, can not have the matter brought before it except upon a formal invitation by the Government of Belgium to the Government of the United States to participate in the same manner as in other great international exhibitions held abroad during the past thirty years.

I have the honor to inquire, therefore, whether it is the purpose of the Belgian Government to extend such an invitation. If so, the President will take pleasure in bringing it to the attention of Congress at its next session, with a recommendation for its acceptance.

Accept, etc.,

T. F. BAYARD.

No. 41.

Mr. de Bounder de Melsbroeck to Mr. Bayard.

[Translation.]

LEGATION OF BELGIUM,
Washington, February 3, 1888. (Received February 4.)

Mr. SECRETARY OF STATE: I hastened to communicate to my Government the note which your excellency was good enough to address to Count d'Arschot under date of 29th July last.

The Belgian Government having since then taken a more active and efficient interest in the success of the international exhibition which is to be opened at Brussels next May, has charged me to officially invite the United States to take part in this great competition, and hopes that the Government of the United States of America will consent by its moral and financial support to aid the country in occupying at that exhibition a position worthy of the marvelous progress which it has realized in the economic world.

I consider it my duty to inform your excellency that the executive committee of the American exhibitors, which is already formed at New York, has designated as its delegate the Hon. John Bigelow, formerly Minister of the United States at Paris.

I avail myself, etc.,

TH. DE BOUNDER DE MELSBROECK.

No. 42.

Mr. de Bounder de Melsbroeck to Mr. Bayard.

[Translation.]

LEGATION OF BELGIUM,
Washington, February 29, 1888. (Received March 1.)

Mr. SECRETARY OF STATE: Belgian manufacturers occasionally send agents to foreign countries for the purpose of peddling linen, woolen, cotton, and other new goods, which they take with them.

Desiring to furnish suitable information to the interested parties who apply to the department of foreign affairs, I have the honor to have recourse to your excellency's good offices, begging you to be pleased to acquaint me with the laws and regulations which are in force in the United States on the subject of peddling.

I avail myself, etc.,

TH. DE BOUNDER DE MELSBROECK.

No. 43.

Mr. de Bounder de Melsbroeck to Mr. Bayard.

[Translation.]

LEGATION OF BELGIUM,
Washington, February 29, 1888. (Received March 1.)

Mr. SECRETARY OF STATE: The King of the Belgians has offered an annual prize of 25,000 francs, the object of which is to encourage intellectual effort, and I have the honor to transmit to your excellency the inclosed notice, which summarizes the conditions on which the prize for 1893 will be awarded. The award will be made to the best work on the means of procuring, in abundance and at small cost, the best quality of potable water for large cities, especially for Brussels and its suburbs.

As citizens of the United States are invited to compete for this prize, I take the liberty to beg your excellency to cause this matter to be widely made known.

I avail myself, etc.,

TH. DE BOUNDER DE MELSBROECK.

[Inclosure.]

Notice.

By an order bearing date of December 14, 1874, His Majesty the King of the Belgians offered an annual prize of 25,000 francs, which was designed to encourage intellectual effort.

The prize for 1893 will be open to international competition and will be awarded to the best work on the means of procuring, in abundance and at small cost, the best quality of potable water for large cities, especially for Brussels and its suburbs, regard being had to the future increase of population.

Both manuscript and printed works will be received,

New editions of printed works can not be received unless they contain considerable changes and additions and have appeared, like the other works, during one of the years 1889, 1890, 1891, or 1892.

Works may be written in one of the following languages: French, Flemish, English, German, Italian, and Spanish.

Foreigners desiring to compete for the prize must send their works, either printed or in manuscript, before January 1, 1893, to the ministry of agriculture, industry, and public works, at Brussels.

If a work in manuscript obtains the prize it is to be published in the course of the year following that in which the prize shall have been awarded.

The award will be made by a jury appointed by His Majesty the King of the Belgians. The said jury will be composed of seven members, three of whom will be Belgians and four foreigners of different nationalities.

No. 44.

Mr. Bayard to Mr. de Bounder de Melsbroeck.

DEPARTMENT OF STATE,
Washington, March 5, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 29th ultimo, whereby you inform me that in view of the circumstance that Belgian manufacturers occasionally send agents to foreign countries for the purpose of peddling (*colportant*) linen, woolen, cotton, and other goods which they take with them, your Government desires to furnish suitable information to the interested parties who may make inquiry of the department of foreign relations, and request my assistance in acquainting you with the laws and regulations in force in the United States on the subject of peddling (*colportage de marchandises*).

In reply I have the honor to state that I do not quite understand whether your inquiry relates to the actual sale of the wares peddled from place to place, or to the operations of commercial salesmen who travel about with samples of goods which they exhibit and take corresponding orders for consignments thereof, to be afterwards delivered.

The laws regulating these two classes, peddlers and commercial travelers (the latter being commonly called drummers), are prescribed by the legislation of the several States. They vary widely in different States, and in each the two classes are subject to different treatment. Discriminations as to license fees, etc., are not infrequently made between commercial travelers representing houses doing business in the State and those who solicit orders on behalf of houses in other States of the Union or in foreign countries. These laws are continually undergoing alterations, and, as they sometimes affect the commercial intercourse of the States among themselves, are occasionally brought into question before the Federal tribunals.

Under these circumstances it would not be practicable for this Department to furnish the Government of Belgium with authoritative information covering the wide range of your inquiry. If, however, you will present it in a more limited form, stating the class of commercial colportage to which it relates and the States whose legislation it is desired to know, I will cheerfully endeavor to obtain further information on the subject.

Accept, etc.,

T. F. BAYARD.

No. 45.

Mr. de Bounder de Melsbroeck to Mr. Bayard.

[Translation.]

LEGATION OF BELGIUM,
Washington, March 27, 1888. (Received March 30.)

Mr. SECRETARY OF STATE: My Government, being engaged in an examination and revision of its laws respecting naturalization, asks me for the text of a circular issued as far back as the year 1856 or 1857, whereby one of the honorable predecessors of your excellency in the Department of State announces to foreign Governments that "every child born upon the soil of the United States of America of alien parents, whether they be naturalized or not, is by the fact of his birth to be deemed naturalized, and can therefore claim the quality of a citizen of the United States."

My Government desires also to know if the legal decision embraced in such circular is still in force.

I should be very grateful if your excellency would have the great kindness to furnish me with this document and give me the information desired.

Thanking your excellency in advance, I embrace, etc.,

TH. DE BOUNDER DE MELSBROECK.

No. 46.

Mr. Bayard to Mr. de Bounder de Melsbroeck.

DEPARTMENT OF STATE,
Washington, April 2, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo, in which you request the text of a circular supposed by you to have been issued by a former Secretary of State to the effect that "every child born upon the soil of the United States of America of alien parents, whether naturalized, or not, is by the fact of his birth to be deemed naturalized and can therefore claim the quality of a citizen of the United States," and further request to be informed whether the doctrine so enunciated is still in force.

A very careful examination of the records of the Department fails to disclose any circular answering to the description you give.

The existing provisions of law on the subject are found—

(*a*) In section 1 of the act of Congress of April 9, 1866 (now section 1992 of the Revised Statutes), which provides that—

All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

(*b*) In section 1 of the XIVth amendment to the Constitution of the United States, proposed to the States June 16, 1866, and promulgated July 21, 1868, it is provided that—

All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside.

I find the following statement in an instruction of Mr. Marcy, then Secretary of State, to Mr. Mason, our minister to France, dated June 6, 1854:

> In reply to the inquiry which is made by you in the same letter, whether "the children of foreign parents *born in the United States*, but brought to the country to which the father is a subject and continuing to reside within the jurisdiction of their father's country, are entitled to protection as citizens of the United States," I have to observe that it is presumed that, according to the common law, any person born in the United States, unless he be born in one of the foreign legations therein, may be considered a citizen thereof until he formally renounces his citizenship. There is not, however, any United States statute containing a provision upon this subject, nor, so far as I am aware, has there been any judicial decision in regard to it.

The Attorney-General of the United States on 18th of July, 1859, gave it as his opinion that "a free white person born in this country of foreign parents is a citizen of the United States." (Op. Attorney-General, IX, 373.)

Constitutional provisions or statutes in this relation subsequent to these *dicta* will of course control; and questions arising thereunder must be considered upon the facts presented in actual cases in which a ruling becomes necessary, giving due heed to the general principle that the right of election of citizenship commonly pertains to the individual himself on becoming *sui juris*.

Accept, etc.,

T. F. BAYARD.

No. 47.

Mr. de Bounder de Melsbroeck to Mr. Bayard.

[Translation.]

LEGATION OF BELGIUM,
Washington, June 30, 1888. (Received June 30.)

Mr. SECRETARY OF STATE: Since the last general census of the population of Belgium, which was made on the 31st day of December, 1880, various foreign governments have expressed a desire to be furnished with a list of such of their citizens or subjects (*nationaux*) as were residents of Belgium at that time. According to the law of May 25, 1880, a census of the population of the kingdom is to be taken every ten years, in such a way that ten censuses shall be taken during each century of the Christian era. The date of the next census will consequently be December 31, 1890. My Government thinks that it might be well in the interest of families and of certain executive departments for arrangements to be made between Belgium and those States which take a census of their population periodically, providing for an exchange of those of their census reports which relate to natives of their respective countries. The result of such an exchange would be, mainly, the facilitation, to a great extent, of the numerous inquiries which are daily made, both by private individuals and public authorities, concerning the fate of absent persons; it would, moreover, aid in the execution of the laws which govern the military service, in the preparation of statistics with regard to the population *de jure*, and in the making of the long searches which are so frequently rendered necessary by marriages, the division of estates, the collection of taxes, etc.

I am instructed to inquire of your excellency whether the United States Government feels disposed to conclude a convention to govern in future, the exchange in question. Your excellency will find here-

with inclosed two of the cards which were used in collecting information concerning each person entered in the census of Belgium, of December 31, 1880. The place of birth was to be stated therein, and not the nationality. The Government of the King can not now say positively whether any change will be made in the text of these cards for the census of 1890, especially as regards mention of the nationality of the persons entered. It would consequently be glad to know whether the United States census reports mention the nationality as well as the birthplace of those entered.

I avail myself, etc.

TH. DE BOUNDER DE MELSBROECK.

No. 48.

Mr. de Bounder de Melsbroeck to Mr. Bayard.

[Translation.]

LEGATION OF BELGIUM,
Washington, August 29, 1888. (Received August 30.)

Mr. SECRETARY OF STATE: I hastened immediately to announce to my Government that, at the suggestion of your excellency, Congress had decided to raise to the rank of envoy extraordinary and minister plenipotentiary the representative of the United States in Belgium, and that the nomination of Mr. Lambert Tree, for this latter title, had been submitted for the approval of the Senate.

The Government of the King instructs me to express to your excellency the satisfaction it has experienced at the advancement in rank of the mission of the United States to Belgium, and the Prince de Chimay adds: "Mr. Lambert Tree during his residence here has won universal good will; thus his promotion will be particularly well received."

I congratulate myself upon being the interpreter of these sentiments, and I have, etc.,

TH. DE BOUNDER DE MELSBROECK.

No. 49.

Mr. Bayard to Mr. de Bounder de Melsbroeck.

DEPARTMENT OF STATE,
Washington, August 31, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 29th instant in which you convey an expression of the satisfaction with which your Government has received information of the advancement in rank of the mission of the United States at Brussels, as well as of the promotion of Mr. Tree, the minister.

The President is much gratified by the contents of your note, and it has afforded the Department sincere pleasure to receive the kind message of the Prince of Chimay, so complimentary to our minister at Brussels.

Accept, etc.,

T. F. BAYARD.

BOLIVIA.

No. 50.

Mr. Carlisle to Mr. Bayard.

No. 36.] LEGATION OF THE UNITED STATES,
La Paz, Bolivia, September 10, 1888. (Received October 15.)

SIR: I have the honor to advise that the national congress of Bolivia in ordinary annual session met in Sucre and perfected its organization on the 6th of August last.

The returns of the election held on the 13th, 14th, 15th, and 16th of May, for president and vice-presidents of the Republic, for the constitutional period of four years, were then canvassed and verified by that body on the 13th of August, as follows:

For president: Anicito Arce, 25,396 votes; Eliodora Camacho, 7,183 votes; scattering, 1,839 votes; total, 34,418 votes.

For first vice-president: José Manuel del Carpio, 21,537 votes; Belisario Salinas, 6,353 votes; Julio Mendez, 998 votes; Antonio Moreno, 657 votes; scattering, 4,873 votes.

For second vice-president: Serapio Réyes Ortiz, 21,995 votes; Demetrio Calbimonte, 6,260 votes; scattering, 6,163 votes.

And in conformity thereto a congressional decree was issued same day proclaiming as elected president, Aniceto Arce; first vice-president, José Manuel del Carpio; second vice-president, Serapio Réyes Ortiz, and fixing the 15th of August for the ceremonial of investiture.

The ceremony took place on that day, and the President elect pronounced before congress, on receiving the insignia of office, a discourse, which I inclose herewith in newspaper copy, with translation.

The first executive decree, issued August 15, continued the members of the cabinet in their respective offices for the time being.

I may be permitted to add that the present administration begins its functions in the light of abundant promise. The revolutionary party, in the overwhelming defeat of Camacho, is broken up and the country, under the capable and firm guidance of its present executive, is about entering upon an era of profound peace and prosperity.

I am, etc.,

S. S. CARLISLE.

[Inclosure in No. 36.—Translation.]

Discourse pronounced by Dr. Aniceto Arce on receiving the insignia of supreme power.

Mr. President, Honorable Representatives of the Nation:

Agreeably to constitutional mandate you have completed the work of investing me with the insignia of the supreme power to which the suffrage of my countrymen has elevated me; and in accepting it I appreciate the sacred obligations which the solemn oath I have just taken imposes upon me, in the presence of the God of our country, that He may favor my sincere designs, and before the worthy representatives of

the nation, to the end that by their well-directed acts and abilities they may unitedly further the patriotic purposes of the Government which you have inaugurated. To accomplish and make good the law is the synthesis of the responsibility of the mandatory, and the moral force of the nation increases when these duties are performed on the part of the authorities and of the people.

Invested with the insignia of head of the nation, I cease to be a party leader, and burying in the pit of oblivion the incidents natural and logical in the election contests of a democratic people, I invoke the support of all those citizens, lovers of their native land, to the end that they may assist me to build up the prosperity of the country.

Thus the preservation of public order as a source of the general good should be the work of those who were before of opposite political parties, and you, legislators, could peacefully provide for the necessities of the different means of public administration, and the Government execute your mandate with decision and patriotism.

With an earnest, constant desire I shall maintain the pleasant relations which now bind us to all the nations, and those especially ought to be fraternal which we should observe toward the neighbors which surround us.

The questions should be discussed in peaceful harmony and their determination placed upon the ground of strict justice.

Honorable senators and deputies, allow me, in this moment of a sacred and patriotic effusion of my soul, to render homage of gratitude to the illustrious mandatory who has just delivered the authority, full of glory, for having wisely preserved the public order without any interruption during his period of office, transmitting the power which the representatives of the people had intrusted to him in the midst of the peace which we now enjoy; glory and honor for having guarded the exercise of the public liberties, making them practical, especially the most precious of these liberties, the liberty of the press, even in its surprising and grievous misguidance. High honor it is for him to leave to the nation an army, moral and disciplined, meritorious defender of his native land, worthy supporter of republican institutions.

Honorable representatives, from your august presence I speak also to the people whom you represent; and in promising upon oath the performance of my arduous duties before you, I do so with the same entireness before them, in order that my course of action, so many times disclosed, may be faithfully carried out.

I pray that God and the representatives of the nation will aid me in this great work.

ANICETO ARCE.

SUCRE, *August* 15, 1888.

No. 51.

Mr. Carlisle to Mr. Bayard.

No. 41.] LEGATION OF THE UNITED STATES,
La Paz, Bolivia, October 6, 1888. (Received November 14.)

SIR: I have the honor to report that the military mutiny begun at Sucre on the 8th of September last has led to graver events.

After two days of unrestrained and brutal license on the part of the soldiers, during which they killed 137 innocent, defenseless persons and wounded 60 more, committing besides every excess known to crime, and sparing neither age, condition, or sex, a leader appeared upon the scene in the person of Belisario Salinas, who proclaimed himself "Superior, political, and military chief of the South," and set up a provisional government with subordinates of his choice.

President Arce, who had fled from Sucre the night of the 8th, arrived on the 14th at Cochabamba, where he was received with every demonstration of loyalty.

He at once proclaimed the country in a state of siege, appealed to the patriotism of the people, and ordered the arrest of all persons suspected of complicity with the insurrectionary movement.

Under this order General Camacho and his suspected friends residing here were arrested on the night of the 19th and after a short im-

prisonment were taken to Huanchaca for safer keeping. The three battalions of the South, so far as any organization is left, are insurgent. The Army of the North, composed of three battalions of 500 men each, a squadron of cavalry of 250 men, and a select body of infantry from La Paz of 250 men, is apparently loyal and has been promptly concentrated at Oruro for a forward movement.

President Arce left Oruro September 30 with 1,200 men for Potosi, leaving the remainder of the army to follow in strategic movement upon Sucre. In the meantime a "junta" formed by the cabinet ministers Velarde and Ichaso and the prefect of Potosi had gathered together at that place a rude and undisciplined force of about 1,100 men. This body of men was advanced September 28 towards Sucre to repel the insurrectionary troops said to have been marched out from that place under Salinas to take Potosi and deliver battle to the Army of the North.

There is a grave misgiving in the public mind that when the forces meet, Arce's command, though numerically much stronger than that of the insurgents, may be greatly weakened by defection, and that the large proportion of the rank and file may affiliate with, instead of fighting, the enemy. This was the case with the Chorolque Battalion, stationed at Totala, 3 leagues from Sucre, which, on being marched to the city to re-establish order, was met by the insurgents in the outskirts and almost immediately absorbed by them, the disgusted officers of the battalion and a remnant of faithful soldiers retreating upon Potosi.

Events of a decisive character are daily looked for, and I trust to be able in a very short time to advise that legitimate order has been restored.

I am, etc.,

S. S. CARLISLE.

No. 52.

Mr. Carlisle to Mr. Bayard.

No. 44.] LEGATION OF THE UNITED STATES,
La Paz, Bolivia, October 22, 1888. (Received November 26.)

SIR: I have the honor, referring to my despatch No. 41, to report that the military insurrection at Sucre has been suppressed and civil order completely restored.

President Arce, with the troops from Oruro, arrived at Potosi on the evening of the 6th instant, and after re-enforcing his army to 2,500 men, marched out from Potosi on the morning of the 8th and late in the afternoon encountered the insurgents, 800 strong and well posted on the heights of Karikari with eight Krupp guns. He at once attacked them and with the few remaining hours of daylight gained a decided advantage. The next day they retreated to Chaqui, a few miles south of their original position, and there dispersed, the same afternoon abandoning their cannon and other material of war and taking precipitate flight in the direction of the Argentine frontier.

Their courage in marching almost to the gates of Potosi to meet the constitutional army is explained by the fact that the road from Karikari afforded them the only safe line of retreat out of the country in event of disaster.

The loss on either side was insignificant.

This mutiny never had the sympathy or support of the people, but from the beginning to the end was the work of a brutal and cowardly body of soldiers, instigated by a few degraded and dismissed officers of the line. This is shown especially in the conduct of the citizens of Sucre, who, as soon as the insurgents had marched out towards Potosi, began the re-establishment of order and took effective measures for the defense of the city against their return.

The President, after the engagement, returned to Potosi, whence, on the 14th instant, he directed an official proclamation re-assembling the national congress at Sucre on the 1st of November next.

There is some disaffection in the North, caused by retention of the seat of the government and the sessions of congress at Sucre, but it is generally believed that it will soon be quieted under the President's conciliatory assurance and conduct.

I am, sir, etc.,

S. S. CARLISLE.

No. 53.

Mr. Bayard to Mr. Carlisle.

No. 27.] DEPARTMENT OF STATE,
Washington, November 30, 1888.

SIR: I have received your No. 44 of October 22 last, in which you report the final suppression of the military mutiny at Sucre and the complete restoration of civil order.

The Department receives this information with satisfaction, and confidently hopes that the restoration of domestic peace will prove auspicious of an era of prosperity and advancement for Bolivia under the benign influence of a stable constitutional government.

I am, etc.,

T. F. BAYARD.

BRAZIL.

No. 54.

Mr. Jarvis to Mr. Bayard.

No. 112.] LEGATION OF THE UNITED STATES,
Rio de Janeiro, October 26, 1887. (Received November 21.)

SIR: In reply to your No. 70, of the 5th of September, 1887, I have to report that the agent of the Pedro Segundo Telegraph and Cable Company, Dr. Orville A. Derby, made a formal application to the Imperial Government for an extension of one year in which to complete and open the proposed line. I also addressed a note to the minister for foreign affairs calling his attention to the matter, and asking his kind offices in giving the company the time requested. An extension of six months was promptly given, and, upon representations made to the Government as to the necessity of still further time, the minister for foreign affairs has addressed me a note giving an assurance of another six months for completion if the company shows that its failure to complete the work within the present extension was no fault of the company. I inclose you a copy and translation of this note; and I beg to express the earnest hope that the company will go forward with the actual construction and submersion of the cable. If so, I think I can safely say the Government of Brazil will be liberal with the company as to future necessary extensions.

I have, etc., THOS. J. JARVIS.

[Inclosure in No. 112.—Translation.]

Mr. de Cotegipe to Mr. Jarvis.

DEPARTMENT OF FOREIGN AFFAIRS,
Rio de Janeiro, 24th of October, 1887.

In addition to my note of the 16th of September last, I have the honor to inform Mr. T. J. Jarvis, envoy extraordinary and minister plenipotentiary of the United States of America, that the department of agriculture, commerce, and public works has just stated to me that, by decree No. 9872 of the 17th of last month, there was extended for six months more the term prescribed to the Pedro the Second American Telegraph and Cable Company for the submersion of the submarine cable, and that there can be granted only six additional months for the completion of the works, if the company shows that it has not been able to complete them within the term now granted on account of main force.

I take the opportunity, etc., B. DE COTEGIPE.

No. 55.

Mr. Jarvis to Mr. Bayard.

[Extract.]

No. 114.] LEGATION OF THE UNITED STATES,
Rio de Janerio, November 10, 1887. (Received December 13.)

SIR: Supposing that you will receive the news with interest and pleasure, I write to inform you of the better and more peaceful relations between Brazil and the Argentine Republic.

It has been for some years an open secret that, while the diplomatic relations between the two countries were pleasant enough, there was, in fact, existing a spirit of jealousy and ill-feeling that was liable to serious results. One cause of irritation and apprehension was a question of boundary between the remoter sections of the two countries. Happily that question has been substantially adjusted by a mixed commission.

Another question that was a great source of vexation and complaint was the difficult matter of quarantine. It was charged that the Argentine authorities quarantined ships coming from Rio de Janeiro in the yellow-fever season upon a mere pretext, and often when there was in fact no necessity for it; and that this pretext was often made use of to inflict injury upon Brazilian commerce and interests. On the other hand, it was charged that the Brazilian authorities quarantined ships coming from the River Plate in the cholera season from like motives, and that the quarantine had been kept up long after the danger had ceased, when it was justified in the beginning. These charges and counter charges, whether groundless or not, irritated the public mind and threatened the prosperity and peace of the two countries. In the first half of this year a considerable injury was inflicted upon one of the great interests of the Argentine and Uruguay Republics by the prolonged prohibition of the importation of dried beef (carne secca) from the River Plate into Brazil; and the press and people of those countries gave out violent declarations against the Brazilian authorities. Of course I express no opinion as to the justification in the one case or the other; but I am happy to inform you that the three countries have come to a better understanding on this vexed question.

For two months or more negotiations have been going on between representatives of Brazil, the Argentine Republic, and the Uruguay Republic, in this city, looking to the execution of a sanitary convention between these three countries, which will hereafter regulate all these perplexing questions. The treaty has not yet been signed, but I am informed that there is a general agreement among the representatives of the three powers, and that it will be executed at no distant day.

While I have never officiously obtruded my opinions or suggestions upon any one, I have not failed to avail myself of all opportune occasions to suggest a peaceful adjustment of all conflicting questions among these South American countries. These countries have great resources, and with peace at home and abroad, and with good government, they have a future of great prosperity before them. I do not mean to intimate that my opinions or suggestions have had any influence, and I only refer to the matter that you may be informed of my general course of conduct and intercourse among those with whom I come in contact.

I have, etc.,

THOS. J. JARVIS.

No. 56.

Mr. Bayard to Mr. Jarvis.

No. 78.] DEPARTMENT OF STATE,
Washington February 10, 1888.

SIR: I inclose for your information copy of a letter from Mr. Stephen W. Hill, of Espy, Pa., concerning a reported effort to encourage emigration of colored people from the Southern States to Brazil.

The Department has no knowledge whatever touching the foundation of the present report, but, in view of the unfortunate results attending the emigration of citizens of some of the Southern States to Brazil in 1865, and of a number of laborers who left the United States about 1878, to work on the Madeira and Marmore Railroad, I should be pained to suppose there was any probability of the recurrence of similar failures.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 78.]

Mr. Hill to Mr. Bayard.

ESPY, COLUMBIA COUNTY, PA., *January* 31, 1888.

DEAR SIR: I beg leave to call your attention to the rumor that is going the rounds of the press that there is a scheme on foot, said to have originated at Topeka, Kans., for starting a great emigration of colored people from the Southern States to South America. I beg leave to ask, as a favor to my race, if the State Department has any knowledge of such an enterprise. And if so, whether the proposed emigrants are going in good faith to become subjects of the Emperor of Brazil, or under contract to labor under such terms as will reduce them to involuntary servitude, and if so, will you use your influence as Minister of State, so far as may be compatible with international law and the right of expatriation, to prevent any outrage being perpetrated on ignorant people. So far as the statement goes to set forth probability of their being sold into slavery, I have no apprehension for the reason that President Cleveland's administration would not tolerate such a scheme for a moment, as it has endeavored at all times to administer the Government upon purely democratic principles; that is, to procure the blessing of liberty and to promote the general welfare of all, and such a thing would be at variance with the progressive ideas of the Emperor Don Pedro; but whilst this is true, I am aware of the many schemes resorted to to violate laws in relation to contract labor, and to bring persons to this country to take the place of American workmen.

Yours, etc.,

STEPHEN W. HILL.

No. 57.

Mr. Jarvis to Mr. Bayard.

[Extract.]

No. 122.] LEGATION OF THE UNITED STATES,
Petropolis, March 12, 1888. (Received April 12.)

SIR: I have to inform you of the fall of the Cotegipe ministry, which has been in power since August 20, 1885, and of the appointment of a new ministry. The immediate cause of the fall of the ministry was a conflict between the navy and the Government; but to understand this fully it will be necessary to refer briefly to other facts leading up to it.

The ministry had been weakened in the confidence of the public by their attitude on the slavery question. Almost immediately after they came into office a law was passed, known as the Cotegipe-Saraiva law, providing for the gradual extinction of slavery. This law was a compromise between the conflicting opinions, and it was generally accepted at the time as the end of legislation on that subject; but it is alleged that in the execution of the law the Government adopted a dilatory policy, and construed every doubtful question against the slave and in

favor of the slave-owner. The action of the Government in thus neutralizing the law re-opened the whole question, but the Government was strong enough in the popular branch of the general assembly to sustain itself on all points. Public sentiment proved to be far in advance of the Government, and the people commenced organizing outside of the law for the more speedy emancipation of the negroes. In the last few months the movement has received a wonderful impetus, and it is now led by some of the largest slave-owners, and by some who a year ago were among the strongest supporters of the Cotegipe government.

The course of the Government on this question has subjected it to many attacks, which, aided by the desertion of some of its strongest adherents, have gradually deprived it of the support of the country. But another and a still more serious trouble (because it may repeat itself) was what is known here as the military question. Some six or eight months ago an army officer published articles in the newspapers defending certain acts of army officers, and criticising certain Government officers. The minister of war reprimanded the officer, who in turn was supported by his fellow-officers; and finally the minister put some of the officers under arrest for insubordination. Army officers then commenced holding meetings and passing resolutions to such an extent that the matter was taken up by the general assembly, which was then in session, and the Government was interrogated as to its intentions. The ministry announced their purpose to compel the army to submit to proper discipline and to subordination to the civil authorities. The army was not without friends and supporters in parliament, and the questions at issue excited a good deal of feeling in and out of the general assembly.

The discussion and excitement went on day after day till finally it was adjusted by the passage of a compromise resolution by the senate, which was something of a victory for the army, but which the ministry accepted as a means of settling what threatened to be a dangerous difficulty. I have referred to this occurrence because I think its influence can be seen in the events of last week, which were the direct occasion of the fall of the ministry. One night in the early part of last week an officer of the navy in citizen's dress was arrested by the police on the street in Rio for disorderly conduct, and was imprisoned for several hours.

When his fellow-officers heard of it they became very indignant at what they termed an outrage upon the dignity and rights of the navy. They held meetings, appointed committees, and demanded the dismissal of the chief of police and the punishment of the chief offending persons. The ministry was not disposed to yield to these demands, and conflicts followed between the police and squads of marines on the streets to such an extent that persons were wounded and property was destroyed. The disorder and the insecurity of life and property became so serious that it was found necessary to withdraw the police from the streets and to substitute for them a regiment or more of soldiers. Under these circumstances the ministry tendered their resignations in a body, and they were promptly accepted.

A new ministry has just been announced, composed as follows: President of the council and minister of finance, João Alfredo Correa de Oliveira; minister of the Empire, José Fernandes da Costa Pereiro, jr; minister of justice, Dr. Antonio Ferreira Vianna; minister of foreign affairs, Antonio da Silva Prado; minister of the navy, Luiz Antonio Vieira da Silva; minister of war, Thomaz José Coelho de Almeida; minister of agriculture, Rodrigo Augusto da Silva.

The ministry belongs to the same party (the Conservative) as the Cotegipe ministry, but its members are understood to be much more progressive, and on the slavery question they are said to be in favor of speedy action. I think it may therefore be concluded that the extinction of slavery in Brazil is near at hand, and it is probable that at the coming session of the general assembly, which will begin on the 3d of May next, a strong movement will be initiated to hasten that end.

I have, etc.,

THOS. J. JARVIS.

No. 58.

Mr. Jarvis to Mr. Bayard.

[Extract.]

No. 123.] LEGATION OF THE UNITED STATES,
Petropolis, March 27, 1888. (Received April 28.)

SIR: In reply to your No. 78, dated February 10, 1888, I beg to state that I have no information of any organized plan, or of any special desire, in any part of Brazil, to induce the negroes of the Southern States to emigrate to Brazil. There are, in many provinces of Brazil, organized immigration societies, which are taking very active measures to attract immigrants to these provinces, and to locate them there; but their efforts, as far as I am informed, look alone to Europe.

If any person has visited Brazil, in the interest of the alleged movement, the fact is unknown to me, and also to the editor of the Rio News, a newspaper published in Rio de Janeiro by an American from the State of New York, and who takes an interest in everything concerning his native country. I inclose you copies of his paper of the 5th and 24th of March, 1888, in which he points out the improbability that any such agent ever came to Brazil, and the probable evil consequences that would result from any such movement.

I will make it my business diligently to inquire into the matter, and if I find anything of interest I will make a more extended report.

I am, sir,

THOS. J. JARVIS.

[Inclosure 1 in No. 123.—From the Rio Daily News, Rio de Janeiro, March 5, 1888.]

A dangerous scheme.

The New York Herald of January 20 contains the following telegraphic dispatch from Kansas City, Mo., dated January 19, in regard to a scheme of colonizing African laborers in South and Central America:

"A movement affecting many States and hundreds of thousands of people has been inaugurated in this city and now assumes definite shape. What the political consequences will be no one can tell. The headquarters of the new movement are in Topeka, Kans. The work to be done will be in the Southern States.

"Several well-known colored men of means met three years ago to consult as to the best method of relieving their people from the condition that prevailed in the extreme Southern States, especially in Louisiana, Mississippi, and South Carolina. After carefully studying the plan of government of the various countries open to them, they arrived at the conclusion that South America was the land that would give them shelter and a home, while a few of the investigators were inclined to look with favor upon the Central American States.

"These men, all with some wealth and some of them counting with six figures, sent out educated agents, whose reports are now coming in. The Guianas, Brazil,

and Argentine Confederation were examined as to climate, lands, and laws and privileges. The same work was done in Guatemala, Honduras, Nicaragua, and Costa Rica. While agents were out their principals quietly effected a secret organization, whose head is in Topeka, for the purpose of agitating the matter by means of trustworthy agents throughout the Southern States. The men thus organizing represent nearly $2,000,000, their own money and property, a large portion of which they will devote to this work.

"This new move began to assume definite shape, and before the end of 1888 is reached, an exodus from the Southern States will have commenced that will carry off more than a million of laborers from the cotton, sugar, and rice fields, where they are now at work, while the tobacco fields will yield their full quota.

"There will be two colonies or outfitting points established in Honduras and Costa Rica, but the main efforts of this new organization will be directed to moving the colored people to South America. There will be settlements established in the Guiana highlands, directly north of the equator, and in the Brazilian highlands on the southern tributaries of the Amazon, to which will be directed those people coming from Florida and southern Alabama, Mississippi, and Louisiana. Further South immigration depots will be established in the Argentine Confederation for people from Kentucky, Tennessee, South Carolina and northern Alabama, Mississippi, Louisiana, and Texas.

"At a meeting held last night reports were given by the agent who visited these countries. It was learned that important concessions would be made by the Brazilian and Argentine Governments in the way of land and immunity from taxation. Aid in transportation is promised, which will place this new haven within the reach of all who can secure money enough to carry them through the first season. Their rights and privileges as citizens are guarantied, and owing to the mixed blood already existing in some of those countries their color will not debar them from political and social preferment.

"It was determined last night to continue the work of organization. Trusty agents are to be sent into all the sections where negro labor is so necessary. It is believed that by next fall all will be ready to set the stream in motion, and the attempt will be made to secure all the reliable and trustworthy negroes in the South, leaving only the worthless, lazy class, which is not wanted and which will be carefully weeded out.

"Early in the summer a committee of twenty men will go to South America to complete the arrangements, secure the lands and concessions, and prepare for the work that follows. They are paying their own expenses, asking no favors of any one, and will aid the others to follow. From the reports now received they believe they will be granted free transportation from the United States for all worthy colored people who desire to go.

"It is the design of this committee to settle climatically all who go to their new homes. Those accustomed to the sugar and cotton fields will be distributed throughout the Guianas and Brazil. Those accustomed to mixed farming and cattle will be provided for further south, on the highlands and pampas, where they will be distributed so as to cluster around a common home station or colony."

We do not know the immediate causes of this proposed exodus of negro laborers from the United States, nor can we verify the above report at this distance. There was a migration of these people from the South to Kansas some years ago, and much suffering resulted. Perhaps the same causes and influences are still at work—the dissatisfaction of these poor people with their present condition, their hopes of bettering that condition by a change of residence, and, perhaps, the inducements held out by unscrupulous men.

We shall not undertake to discuss the questions which have arisen from time to time as to their social, civil, and political rights, for these may best be left to the consideration of those personally interested; but in regard to the proposed migration to South American countries there are some considerations which we are in a position to offer, and which may be the means of averting a serious calamity.

In the first place, we have no information of the reputed agents of this Topeka organization, nor of any inducements held out to them by the Brazilian and Argentine Governments. If these agents visited Brazil they succeeded wonderfully well in keeping themselves and their purpose well out of sight, and if any inducements have been offered they have been verbal and through secret channels. The promise of lands and transportation belongs to the minister of agriculture, and his official acts are always published. Assuming, however, that the negotiations spoken of have occurred, and that these agents have made all the specified preliminary arrangements, what are the inducements offered, and what are the results to be apprehended?

In our opinion, which is based upon a knowledge and experience derived from several years' residence in this country, no colony of American negroes will ever be prosperous and contented in South America, especially in Brazil. The language, laws, customs, and institutions of all these countries, except British Guiana, are foreign to them, and are widely different from anything to which they have been ac-

customed. It is our candid opinion that there is not one single country in South America where they will be treated as well as in the United States, even after admitting the justice of every complaint which they may advance to vindicate this projected exodus.

If they come to Brazil the result will be as follows: They will find the coast districts unhealthy and all the good lands taken up by large proprietors. The Amazon Valley comprises great areas of flood plains which are extremely unhealthy and are very unsuitable for agricultural purposes. If they go to the highlands of the southern tributaries of that river, they will be as completely severed from civilization and the world's markets as though they were in the very center of Africa. There is no regular overland communication with the sea-ports of the Atlantic coast, and communication by way of the Tapajos and Xingú is long, broken by rapids, and is not yet opened by navigation lines. The country is not settled, except by wild Indians, some of whom are known as cannibals. Cotton can-not be produced in Brazil as cheaply as in the United States, even near the coast; its production in the interior, therefore, is absolutely out of the question. Tobacco and sugar, also, could not be produced there to compete with the coast districts. In fact, there is not one single agricultural product that they can expect to cultivate profitably under present conditions. Without railways, steam-ship lines, and markets, and without government protection against Indians and lawless characters, the chances of their making even a bare living are very slight. They can not expect help from Brazil, for the country is poor and already overburdened with beggars and parasites, and they should not expect help from the United States, whose protection they propose to discard. With such a future before them the chances are that they will starve or be degraded to the level of the savages about them.

Then, too, there are the social advantages which they enjoy in the United States, all of which must be left behind. Their children will find no public schools awaiting them, nor will the Government make any haste to supply the deficiency. They will have no churches nor church societies beyond what they can create in a rude manner by themselves, and their intercourse with people who are educated, enterprising, and progressive will be reduced to a mere recollection. We do not underrate the character and good qualities of the negro when we say to deprive him of all these will be to turn his steps backward and downward. He needs the stimulus of a vigorous civilization about him, the encouragement of progressive ideas, to keep him going. Remove all these and his intellectual and material development will be checked in an instant.

It needs no spirit of prophecy to foretell that this projected exodus will lead to disappointment, loss, suffering, helpless beggary, degradation, and death. If the American colony at Santarem, on the Amazon, could not maintain itself, what can the less energetic negro expect? Every one of the American colonies in this country has failed and disappeared, except that of Santa Barbara, and it is certain that no negro colony can do better. And however just his complaints against the people among whom he is now living, we can assure him that he is now enjoying more privileges, rights, comforts, and advantages there than he can ever gain here. He may find less prejudice against his color here in Brazil, more opportunities for association and amalgamation, but to gain these he must make infinite sacrifice and suffer infinite loss.

[Inc osure 2 in No. 123.—From the Rio Daily News, Rio de Janeiro, March 24, 1888.]

The Topeka scheme.

It would appear from our latest American exchanges that the Topeka scheme for establishing colonies of American negroes in South and Central America is making rapid progress in the South and is attracting widespread attention. The promoters of the scheme in Topeka, Kans., have effected a regularly-chartered organization under the corporate title "The South and Central American Immigration League of the United States of America," whose capital stock is placed at $2,000,000. The officers of the association were elected early in January last, and correspondence was at once opened with prominent colored men in every part of the country. At the beginning of February, forty-two colonies, comprising about 12,000 members, were reported from eight States, and it was expected that the first lot of them would be ready to leave for their new home about May 1. The cost of transportation from the sea-board is placed at $10 to $15 per capita. It appears that the two countries on which their attention is chiefly centered are Brazil and the Argentine Republic, where they are told that there is no prejudice against their color, and where the climate and soil is everything they could wish.

In our issue of the 5th instant we called attention to some of the inconveniences and dangers to which these misguided people will certainly be exposed in these countries,

We do not hesitate to say that they are totally ignorant of the countries to which they propose to emigrate, and that nothing but failure and extreme suffering will follow such a step. We do not question the justice of their complaints, but we do question the wisdom of fleeing from evils known to those unknown. To show that these evils do exist, and that the colored people of the United States are totally unfitted to cope with them, we shall call their attention to a few plain facts based on experience and easily verified information.

In the first place, the negroes who are proposing to leave the United States are a peaceable, industrious people who are seeking a home where their color will not be an obstacle to social and political preferment, and where they can enjoy the fruits of their industry and enterprise unmolested by prejudice and arbitary restriction. For industrial purposes, they want fertile land, a mild climate, and good markets; and for social purposes, a law-abiding people, just and equable laws, absence of race prejudice, and an opportunity for themselves and children to exercise any and every privilege exercised by any other race. Now, where is this country to be found?

Primarily, there are but two countries, Brazil and Guiana, in South and Central America, which can be said to have settled political institutions, and there is but one, British Guiana, where the English language is spoken. All the States of Central America, Colombia, Ecuador, Venezuela, Bolivia, Peru, and Uruguay, are in a state of revolution, and the Argentine Republic is but little better. In every one of these countries, including Brazil, society is in a very unsettled state and the laws can not be said to afford any protection against usurpation and violence. There is not a republic among them which merits the name, for they are not governments of laws, but of officials. In the Argentine Republic, where several colonies are to be established, the police commissary is a veritable despot, who generally does just as he pleases. It is a common thing for men to be thrown into prison for months, and even years, without warrant or trial; and it is almost an unknown occurrence for a poor man to appeal against their exactions and arbitrary acts. In Brazil, the police delegates are quite as despotic and irresponsible. Now, what can a negro colonist do against such petty tyrants? He will not be able to speak the language; he can not depend upon the courts for protection; he can not appeal to their sense of justice. He will have no recourse but submission.

As to the places selected for colonies, what does he know about them? In the Argentine Republic there are no public lands remaining near the coast or lines of communication. The Government there has very unwisely sold its best lands in large tracts to speculators, who are establishing colonies on conditions most favorable to themselves. A few are honest and public spirited; the majority are grasping and tricky. There are some thrifty, prosperous colonies in that country, but there are more who have failed lamentably and whose inhabitants live worse than the American negro ever did. As for the projected colony on the highlands of the southern tributaries of the Amazon, it is an absurd chimera. The country is an unsettled wilderness, only partially explored, unprovided with even the rudest means of communication, without industries and markets, and full of privations which the most courageous negro in the United States could not stand for six months. No agent of the Topeka organization has ever visited that country; they are proposing to go there on mere hearsay. And the end will be that the consulates of the United States in this country will soon be overrun with destitute negroes, and the United States Government will have to send for them, just as it did for some of the white emigrants after the rebellion. There is more danger in the project than the Topeka league ever dreamed of, and it will be wise to inquire further before it is too late.

No. 59.

Mr. Jarvis to Mr. Bayard.

[Extract.]

No. 128.] LEGATION OF THE UNITED STATES,
Petropolis, May 12, 1888. (Received June 8.)

SIR: Referring to my No. 126, of April 18, 1888, I now have the honor to inclose the translation made by Mr. Williams, the secretary of the legation, of the law concerning trade-marks.

I am, etc.,

THOS. J. JARVIS.

[Inclosure in No. 128.—Translation.]

Law of Brazil concerning trade-marks.

Decree No. 3346, of October 14, 1887, establishing rules for the registry of marks of manufacture and trade.

The Princess Imperial Regent, in the name of the Emperor, thinks fit to sanction and order to be enforced the following resolution of the general assembly:

ARTICLE 1.

The producer or merchant has the right to distinguish his merchandise or products by means of special marks.

ARTICLE 2.

Industrial and trade marks may consist of everything which this law does not prohibit (Art. 8), and which may distinguish articles from others, identical or similar, of different origin.

Any name, special or common, denomination, partnership, designation, or signature and letters or ciphers only, will serve for this purpose, if invested with a distinctive form.

ARTICLE 3.

In order to secure the exclusive use of said marks, their registry, deposit, and publication according to this law are indispensable.

ARTICLE 4.

The commercial junta (council) or inspectoria (board of inspection) of the locality of the establishment, or of the principal one when more than one of the same kind belong to only one owner, is competent for the registry. The commercial junta of Rio de Janeiro is also competent for the registry of foreign marks and as the central depository of those registered in other juntas or inspectorias.

ARTICLE 5.

To effect the registry, a petition from the party interested, or his special attorney, is necessary, accompanied by three samples of the mark, containing:

(1) A representation of what constitutes the mark, with all its accessories and explanations.

(2) A declaration of the product of industry or trade for which it is designed, the occupation of the petitioner, and his place of residence.

ARTICLE 6.

The secretary of the junta, or the employé of the inspectoria appointed for that purpose, shall certify on each of the models the day and hour of its presentation, and, should the registry be ordered, he shall deposit one of them in the archives, and deliver the others to the parties interested with a note of the registry and its number.

ARTICLE 7.

Within thirty days the party interested shall publish, in the newspaper that inserts the acts of the general or provincial government, the certificate of registry containing the explanation of the characteristics of the mark, copied from the declaration required by article 5, No. 1, and within sixty days (reckoning these terms from the date of the said registry) he shall deposit one of the models in the commercial junta of Rio de Janeiro, according to article 4.

ARTICLE 8.

The registry of a mark is prohibited which contains or consists of:

(1) Coats of arms, armorial bearings, decorations or insignia, public or official, domestic or foreign, when their use has not been duly authorized,

(2) A commercial or partnership name which the petitioner can not lawfully use.
(3) The indication of a fixed locality or establishment which is not that of the origin of the article, whether there be joined to this indication a fictitious name or another's name or not.
(4) Words, images, or representations which involve offense to individuals or to public decorum.
(5) The reproduction of another mark already registered for an article of the same species.
(6) Total or partial imitation of a mark already registered for a product of the same species and which may mislead or confuse the buyer. The possibility of error or confusion will be considered to be verified whenever the differences of the two marks can not be recognized without comparison or attentive examination.

ARTICLE 9.

In registry the following [rules] shall be observed:
(1) Priority in the day or hour of the presentation of the mark establishes preference as to registry in favor of the petitioner; in case of the simultaneous presentation of two or more identical or similar marks the preference of that one will be admitted which has been used or possessed for the longest time; and in default of this requisite none will be registered without being modified by the parties interested.
(2) In case of doubt as to the use or possession of a mark the junta or inspectoria will order the parties interested to settle the question before the commercial tribunal, and they will then proceed to registry in conformity with the judgment.
(3) Should identical or similar marks, as set forth in article 8, Nos. 5 and 6, be registered in different juntas or inspectorias the one which is prior in date shall prevail; and in case of simultaneous registry each of the parties interested can apply to the said commercial tribunal; that shall decide which shall be maintained, having in view the provisions of No. 1 of this article.
(4) The junta or inspectoria, to which shall be presented a certificate that the action is pending to which reference is made in the preceding number, shall at once order the registry to be suspended till the final decision of the cause, which resolution shall be published in the official journal at the cost of the party interested.

ARTICLE 10.

From the decision refusing registry an appeal with suspensive effect can be made to the court of appeals of the district, in conformity with regulation No. 143, of March 15, 1842.
Like appeal against the admission of the mark can be made by:
(1) Any one who considers himself prejudiced by it, as regards some registered mark.
(2) The party interested in the cases named in article 8, Nos. 2 and 3.
(3) The party offended in the cases named in No. 4, first part.
(4) The public prosecutor in the two Nos. 1 and 4, last part.
The term allowed for making these appeals shall be five days, reckoning from the publication of the decision; but if the party does not reside in the place where the decision was made, and if there is no special prosecuting officer there, the term shall commence to run thirty days later.

ARTICLE 11.

Neither the failure to make an appeal nor its postponement shall destroy the right of any other party to bring suit in conformity with the preceding article.
(1) For procuring the nullification of the registry made contrary to the provisions of article 8.
(2) To oblige the competitor, who is entitled to the same or a similar name, to modify it so that error or confusion may be impossible (article 8, No. 6, last part).
This action can only be brought by one who can prove prior possession of the mark or name for commercial or industrial use, though he has not registered it; and it expires by limitation, like that referring to article 8, Nos. 2, 3, and 4, first part, if not brought within six months after the registry of the mark.

ARTICLE 12.

The registry shall be valid for all purposes for fifteen years, at the end of which it can be renewed, and so on thereafter.
The registry shall be regarded as null and void if the owner of the registered mark shall not make use of it within the term of three years.

ARTICLE 13.

The mark can only be transferred with the product of industry or trade for which it has been adopted after a suitable note has been made in the register on view of authentic documents.

A like note shall be made should the firms be altered and the mark still continue to be used. In both cases publication is necessary.

ARTICLE 14.

The following persons shall be punished with imprisonment from one to six months and a fine for the use of the State of 500 to 5,000 milreis.

(1) Whoever reproduces wholly or in part, by whatever means, any industrial or trade mark duly registered and published without the authority of the owner or his legal representative.

(2) Whoever uses a mark belonging to another, or forged, as set forth in No. 1.

(3) Whoever sells or offers for sale articles bearing a mark wholly or partly forged, or belonging to another.

(4) Whoever imitates an industrial or trade-mark in such a manner that the buyer may be deceived.

(5) Whoever uses a mark so imitated.

(6) Whoever sells or offers for sale articles bearing an imitated mark.

(7) Whoever uses a commercial name or firm which does not belong to him, whether it forms part of a registered mark or not.

§ 1. To constitute the imitation referred to in Nos. 4 to 6 of this article it is not necessary that the resemblance of the mark should be complete. It is sufficient, whatever the differences, that there should be a possibility of mistake or confusion, as set forth in article 8, last part.

§ 2. The usurpation of the commercial name or firm referred to in No. 7 shall be considered as existing, whether the reproduction be entire or whether there be additions, omissions, or alterations, provided that there be the same possibility of mistake or confusion on the part of the buyer.

ARTICLE 15.

The following persons shall be punished with a fine of 100 to 500 milreis for the use of the State:

(1) Whoever, without due authority, uses as an industrial or trade mark, arms, armorial bearings, or public official insignia, domestic or foreign.

(2) Whoever uses a mark that offends public decorum.

(3) Whoever uses an industrial or trade mark that contains an indication of a locality or establishment which is not that of the place of origin of the merchandise or product, whether there be joined to this indication another's name or a fictitious one, or not.

(4) Whoever sells or offers for sale merchandise or products bearing marks such as are set forth in Nos. 1 and 2 of this article.

(5) Whoever sells or offers for sale merchandise or products such as are set forth in No. 3.

ARTICLE 16.

Whoever uses a mark containing anything personally offensive, or who sells or offers for sale articles bearing such a mark, shall be visited with the penalties of article 237, section 3, of the criminal code.

ARTICLE 17.

The criminal action against offenses named in Nos. 1, 2, and 4 of article 15, shall be instituted by the public prosecutor of the district where articles are found which bear the marks therein mentioned.

Every producer of or dealer in a like article, residing in the place whence it comes, and the owner of the establishment falsely indicated, are competent to bring the suit against the offenders named in Nos. 3 and 5; and the party offended, or the party interested, against those named in articles 14 and 16.

ARTICLE 18.

Repetition of the offense shall be punished with double the penalties fixed in articles 14, 15, and 16, if ten years have not elapsed since the previous condemnation for any one of the offenses named in this law.

ARTICLE 19.

The said penalties do not exempt the delinquents from paying indemnity for the loss caused by them, and which the parties injured can demand by proper suit.

ARTICLE 20.

The sentences pronounced on the offenses embraced in this law shall be published in full by the successful party, in the same journal in which the registries were published; otherwise, they shall not be enforced.

ARTICLE 21.

The party interested can demand:

(1) A search or inspection to ascertain the existence of forged or imitated marks, or of merchandise or products that contain them.

(2) The seizure and destruction of forged or imitated marks in the workshops in which they are prepared, or wherever they may be found, before they are used for a criminal purpose.

(3) The destruction of forged or imitated marks on the packages or articles bearing them before they are cleared from the custom-house, even though the wrappers and the merchandise or products themselves may be thereby damaged.

(4) The seizure and deposit of merchandise or products bearing a forged or imitated mark, or one indicating a false origin as set forth in article 8, No. 4.

§ 1. The seizure and deposit only take place as preliminaries of an action or in the course of it, and are of no effect if it be not instituted within thirty days.

§ 2. The articles seized will serve to guaranty the payment of the fine and to indemnify the party, for which purpose they will be sold at public auction during the action if they easily spoil, or in case of execution.

ARTICLE 22.

Either of the measures referred to in the preceding article will be ordered or granted by the commercial judge whenever the party presents his petition, with a certificate of the registration of the mark (article 6); but in case of search, the judge should observe the formalities prescribed in articles 189 to 202 of the code of procedure and in other legislation in force, and can, when he thinks proper, require security.

The production of the certificate of registry of the mark is unnecessary when the question is as to merchandise or products set forth in article 8, Nos. 1, 2, 3, and 4.

ARTICLE 23.

Without the production of the certificate of registry no action shall be admitted for trial in virtue of this law, except that of article 11; but the injured party shall still be entitled to the indemnity due for the appropriation of the mark which he used prior to the registry.

ARTICLE 24.

The tribunal competent for the trial of actions referred to in this law is that of the domicile of the defendant, or of the place in which were found the merchandise and products marked with the forged or imitated mark.

The indictment and judgment shall be regulated by law No. 562, of July 2, 1850, and decree No. 707, of October 9, of the same year.

The form of procedure for the actions of article 11 shall be that of articles 236 and the following ones of regulation No. 737, of November, 1850.

ARTICLE 25.

The provisions of this law are applicable to Brazilians or foreigners whose establishments are without the Empire under the following requirements:

(1) That there exists between the Empire and the nation in whose territory are the said establishments a diplomatic convention securing reciprocity of guaranty for Brazilian marks.

(2) That the marks have been registered in conformity with local law.

(3) That the respective model and certificate of registry have been deposited in the Junta Commercial of Rio de Janeiro.
(4) That the certificate and explanation of the mark have been published in the Diario Official.

ARTICLE 26.

In case of compliance with requirements Nos. 2 to 4 of the preceding article, the provision in article 9, No. 3, shall have effect in favor of marks registered in foreign countries (which signed the convention promulgated by Decree No. 9233, of June 28, 1884, or which approved it) for the space of four months, counting from the day when the registry is made according to local law.

ARTICLE 27.

The registry of industrial and trade marks shall be preceded by the payment of fees, which the Government will fix by regulation, not exceeding those paid for registries and annotations of commercial contracts, and 20 per cent. more, part of which will be paid to the Junta Commercial of Rio de Janeiro as compensation for the increase of work which it will have.

ARTICLE 28.

The guaranties given by law No. 2682, of October 23, 1875, are applicable to the marks registered in conformity therewith.

ARTICLE 29.

The Government will issue the regulations necessary for the execution of this law.

ARTICLE 30.

Contrary provisions of law are revoked.
Rodrigo Augusto da Silva, of the council of His Majesty the Emperor, minister and secretary of state for the affairs of agriculture and public works, has concurred in this law and will cause it to be executed.
Palace of Rio de Janeiro, October 14, 1887, and the sixty-sixth year of independence and of the Empire.

PRINCESS IMPERIAL REGENT.

Countersigned:
RODRIGO AUGUSTO DA SILVA.
Office of the great seal of the Empire:

SAMUEL WALLACE MAC. DOWELL.

Dispatched October 19, 1887,

JOSÉ JULIO DE ALBUQUERQUE BARROS.

Registered.
Published in the department of state for the affairs of agriculture, commerce, and public works, October 20, 1887. In the disability of the director of the department of commerce, the chief of section.

ALFREDO AUGUSTO DA ROCHA.

Decree No. 9828, of December 31, 1887, approving the regulation for the execution of law No. 3346, of October 14, 1887, concerning marks of manufacture and trade.

The Princess Imperial Regent, in the name of the Emperor, exercising the prerogative conferred on her by article 102, section 2 of the constitution of the Empire, and for the execution of law No. 3346, of October 14, 1887, which establishes rules for the registry of marks of manufacture and trade, thinks fit to approve the following regulation, signed by the Bachelor Rodrigo Augusto da Silva, of the council of His Majesty the Emperor, minister and secretary of state of the affairs of agriculture, commerce, and public works, who has concurred in it and will order it to be executed.
Palace of Rio de Janeiro, December 31, 1887, the sixty-sixth year of independence and the Empire.

PRINCESS IMPERIAL REGENT.

Countersigned:
RODRIGO AUGUSTO DA SILVA.

Regulation referred to in decree No. 9828, of the present date, for the execution of law No. 3346, of October 14, 1887, concerning marks of manufacture and trade.

CHAPTER I.

PRELIMINARY PROVISIONS.

ART. 1. The efficacy of the guaranties established in law No. 3346, of October 14, 1887, in favor of industrial (or manufacturing) and trade marks, depends on the registry, deposit, and publication of said marks. (Law, article 3.)

ART. 2. Registry will be made in the commercial junta or inspectoria of the locality of the establishment, or of the principal one, if more than one of the same kind belong to only one owner, deposit in the Junta Commercial of Rio de Janeiro, and publication by copying the certificate of registry in the journal that publishes the acts of the general or provincial government, according to whether the place of the establishment, principal or sole, is the capital of the Empire, a foreign country, or some province. (Law, articles 4 and 7.)

ART. 3. The registry shall be valid for all its effects for fifteen years, on the expiration of which it can be renewed, and so on, thereafter. But it shall be considered void if the owner makes no use of it within three years. (Law, article 12.)

ART. 4. The guaranties of the cited law No. 3346, of October 14, 1887, are applicable to Brazilians and foreigners whose establishments are outside of the Empire whenever the following requirements concur:

(1) That between the Empire and the nation in whose territory the said establishments exist there be a diplomatic convention securing reciprocity of guaranties for Brazilian marks.

(2) That the marks have been registered in conformity with local law.

(3) That the respective model and certificate of registry have been deposited in the Commercial Junta of Rio de Janeiro.

(4) That the certificate and explanation of the mark have been published in the Diario Official. (Law, article 25.)

ART. 5. In favor of marks registered in foreign countries which signed the convention promulgated by decree No. 9233, of June 28, 1884, or which afterwards agreed to it, the provision of article 20 of this regulation is valid for the term of four months, counting from the day when the registry is made according to local law, whenever the requirements indicated in Nos. 2, 3, and 4 of the preceding article have been complied with. (Law, article 26.)

ART. 6. For the execution of what articles 4 and 5 prescribe, the Government will inform the commercial juntas and inspectorias which nations have concluded with the Empire diplomatic conventions securing reciprocity of guaranties for Brazilian marks and which signed or adopted the convention promulgated by the cited decree No. 9233, of June 28, 1884.

ART. 7. The industrial or trade mark can only be transferred with the article of industry or trade for which it has been adopted, a suitable note thereof being made in the register on view of an authentic document. Like note shall be made when partnership names are altered, but the mark continues to be used. In both cases publication is necessary in conformity with article 2. (Law, article 13.)

ART. 8. The guaranties given in law No. 3346, of October 14, 1887, are applicable to marks registered in conformity with law No. 2682, of October 23, 1875. (Law, article 28.)

CHAPTER II.

OF INDUSTRIAL AND TRADE MARKS; THEIR REGISTRY, DEPOSIT, AND PUBLICATION.

ART. 9. There shall be admitted to registry as an industrial or trade mark whatever distinguishes an article from others, identical or similar, of different origin; also any name, special or common denomination, partnership designation or signature, letter or cipher, if invested with a distinctive form.

Marks are excepted and can not be admitted to registry which contain or consist of—

(1) Coats of arms, armorial bearings, decorations, or insignia, public or official, domestic or foreign, when their use has not been duly authorized.

(2) A commercial or partnership name which the petitioner can not lawfully use.

(3) The indication of a fixed locality or establishment which is not that of the origin of the article.

(4) Words, images, or representations which involve offense to individuals or to public decorum.

(5) The reproduction of another mark, already registered for an article of the same species.

(6) Total or partial imitation of a mark already registered for a product of the same species and which may mislead or confuse the buyer.

Secondary paragraph.—The possibility of error or confusion will be considered to be verified whenever the differences of the two marks can not be recognized without comparison or attentive examination. (Law, articles 8 and 2.)

ART. 10. To obtain registry a petition by the party interested or his special attorney, is necessary, accompanied by three samples of the mark, containing—

(1) The representation, by means of drawing, engraving, printing, or some analogous process, of what constitutes the mark, with all its accessories, including the color or colors with which it should be used.

(2) Its explanation or description.

(3) A declaration of the article of industry or trade for which the mark is intended, the occupation of the petitioner, and his place of residence.

The petition, as well as the samples of the mark, should be done on substantial paper, 33 centimeters long and 22 wide, with a margin for binding, without creases or seams, and each one stamped, dated, and signed. (Law, article 5.)

ART. 11. As soon as a petition is presented for registry the secretary of the junta commercial, or, in the inspectorias, the employé designated by the chief, shall certify on each model the day and hour of its presentation, giving the party a receipt when required, and when the petition is drawn he will submit it for decision. (Law, article 6.)

ART. 12. When the registry is ordered, the secretary or the employé of the commercial inspectoria will certify it on each of the samples of the mark, and will cause one of them to be placed in the archives with the petition, placing on it the order number, which he will note also on the other samples delivered to the party. (Law, article 6.)

ART. 13. Within thirty days, reckoned from the date of the registry, the party interested shall publish in the official newspaper (article 2) the description of the mark and the respective certificate, copied in full from one of the samples, which with the other from the newspaper he shall deposit in the Junta Commercial of Rio de Janeiro, within sixty days, reckoned from the same date.

Secondary paragraph.—The party can, if he wishes it, include in the publication the drawing or representation of the mark. (Law, article 7.)

ART. 14. These documents shall be bound at the end of every year, and to each volume shall be added an index, mentioning in alphabetical order the nature of the products for which the marks are designed, and then consecutively the name of the proprietor, the order number of the archives, and the place of registry.

ART. 15. Documents relative to registries made in foreign countries shall be bound in another volume, with a suitable index added to it.

ART. 16. Indexes corresponding to the past year will be published in the Diario Official in the month of the July following. The Junta Commercial of Rio de Janeiro having ascertained the correctness of the publication, which it will cause to be corrected, if necessary, shall communicate it to the Government, for the purposes determined in the international treaties.

ART. 17. The commercial juntas or inspectorias will permit any one who solicits the privilege to examine in their offices, and under the necessary guard, documents filed or deposited concerning industrial and trade marks.

ART. 18. If before the completion of the registry of a mark the registry of another one or more, (which are) identical or similar, be requested, the registry of that one will be made which had precedence in the day and hour of presentation. In default of this requisite, the mark of that petitioner will be preferred who, within eight days, proves to the tribunal of the commercial junta or inspectoria that he has used or possessed it for the longest time. In default of this proof, none of the marks will be registered unless the parties interested modify them so as to avoid error or confusion. (Law, article 9, No. 1, combined with article 8, No. 6.)

ART. 19. In case of doubt arising as to the use or possession of the mark the commercial junta or inspectoria, if it deems it advisable, will order the parties interested to settle the question before the competent tribunal, and the registry will then be made in conformity with the judgment. (Law, article 9, No. 2.)

ART. 20. Should it happen that identical or similar marks, as set forth in article 9, Nos. 5 and 6, and the separate paragraph, are registered in different juntas or inspectorias, that which is prior in date will take precedence.

In case of simultaneous registry each of the parties interested can apply to the competent tribunal. That will decide which shall be maintained, having in view the provision in article 18. (Law, article 9, No. 3.)

ART. 21. The junta or inspectoria to which may be presented a certificate that this action is pending shall at once order the effects of the registry to be suspended until the final decision of the cause, which (order) the party interested shall publish in the official journal. (Law, article 9, No. 4.)

CHAPTER III.

OF APPEALS.

ART. 22. From the decision refusing or granting registry of an industrial or trade mark, an appeal can be taken with suspensive effect to the court of appeals of the district, according to regulation No. 143, of March 15, 1842.

(*a*) In the first case by the party who has asked for the registry.

(*b*) In the case of grant of the registry.

(1) By the public prosecutor, in the cases of Nos. 1 and 4, last part of article 9.

(2) By the owner of a commercial name or firm which he who has registered the mark can not lawfully use, in conformity with No. 2 of the cited article 9.

(3) By any producer of or dealer in similar goods who resides in the place falsely indicated as the place from which the article comes, in conformity with No. 3.

(4) By the owner of the establishment also falsely indicated as the place of origin of the article, in conformity with said No. 3.

(5) By the party injured, in the case of No. 4, first part.

(6) By the party interested in the registered mark, in the cases of Nos. 5 and 6. (Law, article 10, combined with article 17, second part.)

Secondary paragraph.—Appeal can be made in the case of No. 2 of this article, although the owner of the commercial name or firm has not registered them and though the reproduction be not entire, and though there be additions, omissions, or alterations whenever the possibility of error or confusion is verified. (Law, article 10, combined with article 11, last part, and article 14, No. 7, section 2.)

ART. 23. The term for taking an appeal will be five days, counting from the publication of the decision; but, if the party does not reside in the place where the publication is made, and if there is not a special prosecutor there, the term will begin to run thirty days after. (Law, article 10, last part.)

ART. 24. The commercial junta shall confirm the decision within twenty-four hours, counting from the first session after the presentation of the first draft (minute) of the appeal, if the appeal be not allowed.

The commercial inspectorias shall make their decision within twenty-four hours, reckoned from the presentation of the minute, if they maintain their refusal of the registry.

ART. 25. In the commercial juntas the employé who has served as register in the case is competent to draw up the appeal for the court of appeals of the district, and, in the inspectorias, whoever may be designated by the chief.

The presentation of the papers to the tribunal devolves in the inspectorias on the said employé, and in the juntas on the secretary.

ART. 26. Besides the appeal, the persons mentioned in article 22, and in the cases respectively provided therein, can institute a suit for the nullification of the registry. (Law, article 11.)

ART. 27. The owner of a commercial name or firm is entitled to sue a competitor in the same kind of industry or trade who has a claim to an identical or similar name or firm, to compel him to modify them so that there can be no error or confusion, on proof of prior possession for industrial or commercial use.

Secondary paragraph.—This suit is admissible though the plaintiff has not registered the name or firm, and though there has not been a complete reproduction, but one with additions, omissions, or alterations, provided there be possibility of error or confusion. (Law, article 11, combined with article 14. No, 7, section 2.)

ART. 28. The tribunal competent for the suits named in articles 19, 20, 26, and 27, is that of the defendant's domicil, or of the place in which goods were found bearing the prohibited marks (article 9), or where the usurpation of the name was practiced. (Article 27.) Its form of procedure is that of articles 236 and those following, of Regulation 737 of November 25, 1850. (Law, Article 24.)

ART. 29. The suits referring to acts provided for in article 9, Nos. 5 and 6, can not be instituted without the production of the certificate of registry and of its publication, save, as to the latter, when dealing with acts which occurred within the term allowed for the insertion of the document in the official paper. (Law, article 22, last part, and article 23, first part.)

ART. 30. Those suits expire by limitation which are referred to in article 26, and which relate to the acts provided for in article 9, Nos. 2, 3, and 4, first part (individual offense), and in article 27, if not instituted within six months after the registry of the mark. (Law, article 11.)

ART. 31. The party injured by the appropriation of the mark, of which he made prior use without having it registered, is entitled to demand, by means of a suitable action, indemnity for the loss which he has suffered. (Law, article 23.)

CHAPTER IV.

OF OTHER GUARANTIES OF THE REGISTERED MARK.

ART. 32. The guaranties of the duly registered mark which has been duly deposited and published are also rendered effective by means of:

(1) A search or inspection to ascertain the existence of forged or imitated marks, or of merchandise or products that contain them.

(2) The seizure and destruction of forged or imitated marks in the workshops in which they are prepared, or wherever they may be found, before they are used for a criminal purpose.

(3) The destruction of forged or imitated marks on the packages or articles bearing them before they are cleared from the custom-house, even though the wrappers and the merchandise or products themselves may be thereby damaged.

(4) The seizure and deposit of merchandise or products bearing a forged or imitated mark, or one indicating a false origin.

(5) Penal sanction against culprits.

(6) Indemnity for loss occasioned. (Law, article 21.)

ART. 33. The measures (acts) of the preceding article, Nos. 1 to 4, will be ordered by a commercial tribunal or required by it of the chief of public offices or establishments in which are the goods or products subject to such proceedings whenever the party demands them, exhibiting a certificate of the registry of the mark, and observing the following provisions:

(1) In case of search the formalities of articles 189 to 202 of the Code of Criminal Procedure must be complied with.

(2) The seizure and deposit only to take place as preliminaries of the suit, or in the course of it, and are of no effect if it be not instituted within thirty days, or if it be suspended by default of the plaintiff for more than fifteen days.

(3) All duties due to the national treasury having first been paid in the custom-house by the person who petitioned for the proceeding, the articles seized will be placed in the public depository.

(4) The said articles will serve as a guaranty of the payment of the fine and the indemnity of the mark, for which purpose they will be sold at public auction in the course of the suit, if they easily spoil, or in case of execution. (Law, article 21, sections 1 and 2, and article 22.)

ART. 34. Before ordering the measures (proceedings) of article 30, the judge, if he thinks proper, can require of the party security for payment of expenses (costs). The said party can appeal to the court of appeals of the district against the amount of the costs.

ART. 35. The certificate of registry is not necessary whenever the question is as to marks, goods, or products in the conditions of article 9, Nos. 1 to 4, to all of which are applicable the guaranties of article 32, Nos. 1 to 4. (Law, article 22, last part.)

CHAPTER V.

OF THE PENAL SANCTION.

ART. 36. The following persons shall be punished with imprisonment from one to six months, and a fine of 500 to 5,000 milreis for the use of the state:

(1) Whoever reproduces, wholly or in part, by whatever means, any industrial or trade-mark, duly registered and published, without the authority of the owner or his legal representative.

(2) Whoever uses a mark belonging to another, or forged, as set forth in No. 1.

(3) Whoever sells or offers for sale articles bearing a mark wholly or partly forged, or belonging to another.

(4) Whoever imitates an industrial or trade-mark in such a manner that the buyer can be deceived.

(5) Whoever uses a mark so imitated.

(6) Whoever sells or offers for sale articles bearing an imitated mark.

(7) Whoever uses a commercial name or firm which does not belong to him, whether it forms part of a registered mark or not.

§ 1. To constitute the imitation referred to in Nos. 4 to 6 of this article, it is not necessary that the resemblance to the mark should be complete. It is sufficient, whatever the differences, that there should be a possibility of mistake or confusion, as set forth in article 9, No. 6, last part.

§ 2. The usurpation of the commercial name or firm, referred to in No. 7, shall be considered as existing, whether the reproduction be entire or whether there be additions, omissions or alterations, provided that there be the same possibility of mistake or confusion on the part of the buyer. (Law, article 14, sections 1 and 2.)

ART. 37. The following persons shall be punished with a fine of 100 to 500 milreis for the use of the State:

(1) Whoever, without due authority, uses as an industrial or trade-mark arms, armorial bearings, or public or official insignia, domestic or foreign.

(2) Whoever uses a mark that offends public decorum.

(3) Whoever uses an industrial or trade mark that contains an indication of a locality or establishment which is not that of the place of origin of the merchandise or product.

(4) Whoever sells or offers for sale merchandise or products bearing marks such as are set forth in Nos. 1 and 2 of this article.

(5) Whoever sells or offers for sale merchandise or products as set forth in No. 3. (Law, article 15.)

ART. 38. Whoever uses a mark containing personal offense, or who sells or offers for sale articles bearing such a mark, shall be visited with the penalties of article 237, section 3, of the criminal code.

ART. 39. The repetition of the offense shall be punished with double the penalties fixed in articles 36, 37, and 38, if ten years have not elapsed since the previous condemnation for any of the offenses named in said articles. (Law, article 18.)

ART. 40. The penalties named do not exempt the delinquents from payment of the loss caused by them, and which the parties injured can demand by proper suit. (Law, article 19.)

ART. 41. The sentences passed on the offenses named in this law shall be published in full by the successful party in the same journal in which the registries were published; otherwise they shall not be executed. (Law, article 20.)

ART. 42. The criminal action against the offenses mentioned in articles 36 and 38 shall be solicited by the party interested or injured; that of article 37, Nos. 1, 2, and 4 by the public prosecutor of the district where were found the articles bearing the marks therein named; and that of Nos. 3 and 5 of said article 37 by any producer of or dealer in an identical or similar product, who resides in the place of its origin, or by the owner of the falsely indicated establishment. (Law, article 17.)

ART. 43. The tribunal for these actions is that of the domicile of the defendant or of the place in which were found the goods or products distinguished by the mark subject to the penalty established in the preceding articles.

The indictment and judgment shall be regulated by law No. 562, of July, 1850, and decree No. 707, of October 9 of the same year. (Law, article 24.)

CHAPTER VI.

GENERAL PROVISIONS.

ART. 44. The fees now collected in the commercial juntas and inspectorias of the Empire will continue to be levied and applied in the same way, except, in Rio de Janeiro, those for the title of books, which are raised to 50 reis.

ART. 45. There is also raised to 6 milreis the seal established for the registry of industrial and trade marks in No. 20, section 5, of list B, annexed to decree No. 8946 of May 19, 1883.

ART. 46. Contrary provisions are revoked.

PALACE OF RIO DE JANEIRO,
December 31, 1887.

RODRIGO A. DA SILVA.

No. 60.

Mr. Jarvis to Mr. Bayard.

No. 129.] LEGATION OF THE UNITED STATES,
Petropolis, May 14, 1888. (Received June 8.)

SIR: Referring to my No. 122, dated March 13, I have the honor to inform you that yesterday the general assembly of Brazil finally passed, and the Princess Imperial Regent approved, a law abolishing slavery in Brazil, and I herewith inclose a copy of the law, with a translation thereof.

While I expected the speedy enactment of such a law, I did not anticipate such unanimity in its passage. Every indication of public sen-

timent is in hearty accord with this action of the general assembly, and I may add that this sentiment has been well prepared for the changes to take place in the labor of the country. I therefore do not share in the fears expressed by some as to its immediate effect on the various industries.

The maturing coffee crop is exceptionally large, and some, either honestly or for purposes of speculation, have expressed the apprehension that the immediate effect of emancipation would be so to disorganize labor as to render it difficult, if not impossible, to save the crop. In my view, the country has been so well prepared for this action that its present effect will not be deleterious, and its future results will be most advantageous, as we all know it has proved in our own land, to the general prosperity of the country.

I have, etc.,

THOMAS J. JARVIS.

[Inclosure in No. 129.—Translation.]

Text of the law which declares slavery abolished in Brazil, Rio, May 14.

LAW NO. 3353, OF MAY 13, 1888, DECLARES SLAVERY ABOLISHED IN BRAZIL.

The Princess Imperial Regent, in the name of His Majesty, the Emperor Don Pedro II, makes known to all subjects of the Empire that the general assembly has decreed and she has approved the following law:

ARTICLE I.

From the date of this law slavery is declared abolished in Brazil.

ARTICLE II.

All contrary provisions are revoked.

She orders, therefore, all the authorities to whom belong the knowledge and execution of the said law to execute it and cause it to be fully and exactly executed and observed.

The secretary of state for the affairs of agriculture, commerce, and public works and *ad interim* for foreign affairs, Bachelor Rodrigo Augusto da Silva, of the council of his Majesty the Emperor, will cause it to be printed, published, and circulated.

Given in the palace of Rio de Janeiro, May 13, 1888, the 67th (year) of Independence and of the Empire.

PRINCESS IMPERIAL REGENT.

Countersigned:
RODRIGO AUGUSTO DA SILVA.

No. 61.

Mr. Bayard to Mr. Jarvis.

No. 90.] DEPARTMENT OF STATE,
Washington, June 13, 1888.

SIR: I have to acknowledge the receipt of your dispatch No. 129, of the 14th ultimo, communicating the text of the Imperial decree of the 13th May, proclaiming the law of the same date for the total abolition of slavery in Brazil.

This gratifying information was communicated to me directly by his excellency, Rodrigo Silva, minister of foreign affairs of Brazil, in tele-

gram received here on the 16th ultimo, which, translated, reads as follows:

The bill abolishing slavery has passed parliament, and was approved by the Princess Regent on the 13th. Great manifestations of joy.

The intelligence was received by the President with the utmost satisfaction, and a reply was immediately sent to his excellency by Acting Secretary Rives, in the following terms:

President directs me to convey to your Government his congratulations upon abolition of slavery in Brazil, and to express his personal hope and expectation that freedom thus extended will result in increased happiness and prosperity of your country.

This noble act, whereby Brazil has ranged herself in the now almost universal category of free nations, can not but have the earnest sympathy and call forth the warmest applause of all those who believe that good government among men is based upon liberty and equal rights of man; and it is especially gratifying to learn from your dispatch that every indication of public sentiment in the Empire is in hearty accord with this action of the general assembly, and that the popular mind having been well prepared for the change to take place in the labor system of the country, it is not apprehended that any economic disturbance will ensue.

I am, etc.,

T. F. BAYARD.

No. 62.

Mr. Jarvis to Mr. Bayard.

[Extract.]

No. 145.] LEGATION OF THE UNITED STATES,

Rio de Janeiro, August 31, 1888. (Received September 29.)

SIR: On the 22d instant I sent you a cablegram in the following words: "Emperor arrived in good condition amid great enthusiasm."

Of the arrival of the Emperor and its importance to the Empire, I will now give you a brief account, supposing it may be of interest to you. He arrived as I telegraphed you on the 22d in good condition, and he was joyfully received by a vast concourse of people composed of all classes of society and of all shades of political opinion. His extreme illness in Europe, and the vague and conflicting reports as to his mental and physical condition had filled the public mind with grave apprehensions as to the probable effects of the voyage. So little was known of his condition that no one seemed to know to what extent the elaborate preparations for his reception could be carried out. Thousands upon thousands crowded the piers or went out in ships to meet him, not knowing whether he could be seen at all or not. It was under these circumstances that he made his appearance, in good condition, before an anxious multitude of people, who gave him a heartfelt ovation.

The news of his arrival was received with great demonstrations of joy throughout the Empire. He is much esteemed and beloved by the people of all classes and opinions, and while he lives there will be no effort to make any changes or experiments in the present order of government. There was some anxiety and unrest in political circles before his arrival, growing out of the agitation, by some of the dissatisfied

ex-slave-owners, for a republic. This has all disappeared since his arrival. Some of the slave-owners were very loth to part with their slaves without some compensation for them, and as they lost their slaves under the reign of the Princess Regent, they blame her, and it is said they are very bitter against her. They set to work to organize, in some of the more important provinces, a political party called the Republican party, whose open and avowed object was and is the establishment of a republic. In some local elections they developed a surprising strength, and in a few cases elected their candidates. To fully comprehend their political influence it is necessary to remember the fact that suffrage is very much restricted in Brazil, and that, while these dissatisfied ex-slave-owners are insignificant in numbers when compared with the entire male population, they are numerous in the body of electors. Their determined action and the unfavorable reports, in wide circulation, as to the condition of the Emperor's health created in political circles a feeling of anxiety and uncertainty. It is to be hoped that the Emperor may be spared yet many years, and that he may have the strength and health necessary to the full discharge of his duties.

I have, etc.,

THOMAS J. JARVIS.

CORRESPONDENCE WITH THE LEGATION OF BRAZIL AT WASHINGTON.

No. 63.

Mr. da Costa to Mr. Bayard.

IMPERIAL LEGATION OF BRAZIL,
Washington, July 31, 1888. (Received August 8.)

SIR: The Brazilian minister of foreign affairs has just written commanding me to convey to the President of the United States of America the heartfelt thanks of the Imperial Government for the congratulations which he expressed to the Brazilian minister on the great event of the abolition of slavery in Brazil.

I have to appeal to your excellency to lend me your assistance in the discharge of this agreeable commission by acting as my interpreter with the President.

I avail myself, etc.,

J. AUGUSTO DA COSTA.

No. 64.

Mr. Bayard to Mr. da Costa.

DEPARTMENT OF STATE,
Washington, August 9, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 31st ultimo, in which you convey an expression of the extreme gratifi-

cation of the Imperial Government, occasioned by the remarks of the President to the Brazilian minister on the great event of the abolition of slavery in Brazil.

The President is much gratified by this friendly appreciation of his utterances, which were due no less to a feeling of sincere amity towards Brazil and her people than to a full realization in the light of recent events in our own country of the magnitude and importance of the reform peacefully accomplished in Brazil.

Accept, etc.,

T. F. BAYARD.

CENTRAL AMERICA.

No. 65.

Mr. Hall to Mr. Bayard.

No. 698.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Managua, Nicaragua, August 22, 1887. (Received September 13.)

SIR: I have the honor to inclose a translation of a telegram, received at La Libertad, from the minister for foreign affairs of Salvador, and a copy of one which I addressed to you at his request from the same place. These telegrams relate to a claim of the Government of Italy against that of Salvador, arising from a sale of the Government printing establishment made by the late president Zaldivar to an Italian subject.

The transaction took place over two years ago, and soon after Zaldivar had left the country the courts declared the sale illegal and void, and the property was restored to the Government; the matter has ever since been the subject of diplomatic correspondence.

About three months ago the chargé d'affaires of Italy informed me that he had instructions from his Government to consult with me in regard to this claim; he did not, however, and I did not, consider it necessary to report the incident to the Department. About the same time the Government of Salvador instructed its representative in Paris to settle the claim, if possible, through the medium of the Italian minister at the same place, and negotiations with that object have been going on for several days, but thus far with no prospect of a satisfactory result.

Under the circumstances above mentioned the Government of Salvador appeals to that of the United States, and asks that its mediation be offered to Italy for a settlement of the claim. The minister for foreign affairs and the president of Salvador expressed to me an earnest desire for such mediation and their willingness to abide by the decision of the United States, whatever it might be.

Should the negotiations pending in Paris fail, as it is believed they will, the mediation of the United States would be very grateful to Salvador. I understand that the claim for the property and damages amounts to two million francs.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 698.—Translation.—Telegram.]

Señor Delgado to Mr. Hall.

[Extract.]

SAN SALVADOR, *August* 16, 1887.

Circumstances independent of my will prevented my seeing you yesterday. I hope you will send your Government a cable message to the tenor of what was

suggested last night by Dr. Melendez in his conversation with you. My government trusts also that you will please interpose your good offices with the view of inducing the Government of the United States to offer its mediation to Italy.

With high, etc.,

MANUEL DELGADO.

[Inclosure 2 in No. 698.]

Mr. Hall to Mr. Bayard.

[Telegram.]

LA LIBERTAD, SALVADOR,
August 17, 1887.

The Government of Italy is now pressing a heavy claim against the Government of Salvador, arising out of Zaldivar's transactions. The Salvadorian Government would be extremely grateful if you should offer your mediation to Italy. Negotiations pending in Paris are likely to fail.

HALL.

No. 66.

Mr. Hall to Mr. Bayard.

No. 709.] LEGATION OF THE U. S. IN CENTRAL AMERICA,
Guatemala, September 27, 1887. (Received October 14.)

SIR: With reference to my dispatch, No. 698, of the 22d ultimo, from Managua, and to my telegram of the 17th, from La Libertad, relating to the claim of Italy against Salvador, I have to acknowledge the receipt of your reply to the latter, dated the 26th of the same month, to the effect that without more precise knowledge of the grounds of the Italian claim the Government of the United States hesitates to tender mediation.

The foregoing was transmitted to me at Managua and its purport communicated by me to the minister for foreign affairs of Salvador, who, in reply, said that he would furnish me with the particulars by next mail; up to the present, however, I have not received them.

I have the honor now to inclose a copy of your telegram of the 16th instant, suggesting that the Salvadorian Government should sustain its minister in naming a sum to settle the claim, and if a reasonable proposal should be rejected by the Italian Government then the good offices of the United States might be offered.

Having communicated the purport of the foregoing to the minister of foreign affairs of Salvador, he replied that his government could not authorize its minister to offer a specific sum because the account upon which the claim is based has never been adjusted, and that in this sense the minister at Paris has been instructed by his government.

The Italian chargé d'affaires *ad interim* here informs me that his government broke off, some time ago, all negotiations with the Salvadorian minister at Paris. He also informed me that Signor Sagrini, the claimant, left here for Italy early last month and is no doubt there now, and further, that a new minister of Italy to Central America would soon arrive, and that he probably brings instructions respecting the claim, which in the meantime remains in abeyance.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 709.—Telegram.—Translation.]

Mr. Hall to Señor Delgado.

GUATEMALA, *September* 19, 1887.

With reference to the affairs of Sagrini, the United States minister at Paris says to the honorable Secretary of State, who concurs with him, that in his opinion the Government of Salvador should authorize its minister there to offer a reasonable sum to settle the claim, and in case of its non-acceptance by the Italian Government then the good offices of the Government of the United States might be offered.

HENRY C. HALL.

[Inclosure 2 in No. 709.—Telegram.—Translation.]

Señor Delgado to Mr. Hall.

SAN SALVADOR, *September* 20, 1887.

I received your telegram last night, and after thanking you I have to say that my Government could not authorize its minister at Paris to offer Sagrini (the claimant) a specific sum, because the account has not been adjusted.

My Government thinks that what ought first to be done is to proceed with the adjustment of the account by mutual agreement or through the medium of arbitrators. In this sense it has given instructions to its representative at Paris.

With assurances, etc.,

MANUEL DELGADO.

No. 67.

Mr. Hall to Mr. Bayard.

No. 712.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,

Guatemala, September 28, 1887. (Received October 14.)

SIR: With reference to my dispatch No. 699, and to other correspondence relating to the recent boundary treaty between Nicaragua and Costa Rica, I have the honor to transcribe the following translation of a telegram of this date, received this evening from President Carazo, of Nicaragua: "Congress rejected convention; arbitration remains."

Which means that the Nicaraguan Congress having rejected the treaty of the 26th July last with Costa Rica, the two Governments must now fall back on the convention signed in Guatemala on the 24th of December, 1886, which provides for the arbitration of the President of the United States of the question as to the validity of the treaty of April 15, 1858.

I have, etc.,

HENRY C. HALL.

No. 68.

Mr. Bayard to Mr. Hall.

No. 505.] DEPARTMENT OF STATE,

Washington, October 7, 1887.

SIR: I have received your telegram of the 30th ultimo, saying that the Nicaraguan Congress had rejected the boundary convention with Costa Rica.

Similar information had already been received here through the diplomatic representatives of those Governments at this capital; and in a note to the Costa Rican minister, after acknowledging his upon that subject, I have said, "that I thus learn with regret that the expected course of direct settlement of the questions between two countries to which the United States are equally friendly is interrupted."

I am, etc.,

T. F. BAYARD.

No. 69.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 716.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,

Guatemala, October 7, 1887. (Received November 3.)

SIR: I have the honor to inclose herewith a printed copy of the message of the President of Guatemala to the national constituent assembly of that Republic, on the 1st day of October, 1887, with a synopsis of its contents.

You will observe that the President opens his message with the enunciation of the principle of popular sovereignty, and declares that the legislative authority during the past two years dictated laws in opposition to the interests of its constituents, and in nihilation of branches of the Government, especially in that of the department of finance. It was, therefore, on account of the restrictions imposed upon him that it became impossible to save the national credit, unless with a firm hand, and by change of advisers in his cabinet he should assume, for a time, supreme executive power. Hence his decree of June 26, 1887. That his course of conduct met with popular approval was illustrated by the demonstrations of good will and enthusiastic reception throughout his tour of visit to the eastern departments of the Republic. And, although at first the representative of Mexico refused to recognize the new order of things, that now an arrangement has been perfected by which the Republic of Mexico, in common with all other powers represented at this capital, renews its friendly attitude in harmonious recognition of a firm, existent fact.

The other portions of the message refer, as you will note, to the domestic affairs of the Republic, of which, from time to time, you have been advised, so far as the same relate to the interests of our fellow-citizens resident here.

There seems to be perfect accord between the national administration and the legislative assembly, presaging unity of action and a harmonious execution of the laws.

I have, etc.,

HENRY C. HALL.

[Inclosure in No. 716.]

Synopsis of message presented to the national constituent assembly by General Manuel Lisandro Barillas, President of the Republic of Guatemala, the 1st day of October, 1887.

It opens with a declaration of popular sovereignty, and its recognition by the executive as co-operating in the execution of the laws.

But in the experience of the past two years, owing to the faithlessness of the legislative assembly towards its constituents by hampering the action of the administra-

tion, and imposing restrictions upon the department of finance, and thus seriously impairing the national credit, it became necessary for the President to issue a decree on the 26th of June last, by which the executive power assumed supreme authority.

The people sanctioned this decree by loyal manifestations of good will and enthusiastic reception of the President on his visiting tour through the eastern department of the Republic.

Foreign representatives acquiesced in the new condition of things, including an entire change of cabinet, except the minister from Mexico, who stated that he would refer to his Government in the matter.

Subsequently, however, owing to the "kind and spontaneous initiative" of the German minister, an "arrangement" has been made by which the "Mexican flag salutes" the assembly, "together with the flags of all the powers which are represented here."

A minister has been sent from Guatemala to Washington, where he has received the cordial and kind reception characteristic of the great and intelligent people of the United States of America.

The President regards the establishment of a permanent legation in the United States as indispensable.

Pardons for political offenses were promulgated by decree from the 30th of June to the 15th of September, so that the punishment inflicted would not be more than the prison confinement. The executive power, however, reserved the right to grant or refuse pardon according to circumstances.

In relation to action upon the ecclesiastical authority, and to avoid controversies between church and state, and in conformity with the practice of monarchs in Catholic countries, it was found necessary to apply article No. 92 of the penal code, punishing with imprisonment, or a fine from $300 to $3,000, every person in this Republic who would execute briefs, receipts, or orders from the Roman curia, publish or circulate same.

The archbishop, counsellor at law, Don Ricardo Casanova y Estrada, disobeyed article 92, and was exiled from the country.

The habeas corpus act will continue in force, as a constitutional guarantee, as now defined by the penal code, but its regulation is to be more clearly defined by an initiatory sketch which will be at a future day sent to the assembly.

Agriculture is to be protected in a decided and well considered manner.

Inasmuch as "it is a principle in economy that competition betters and cheapens everything," the President has thought proper to utilize several lines of steamers for trade and agriculture. The line of the Marquis de Campo has been opened to traffic, and in order to prevent the enjoyment of invidious privileges an abatement of 3 per cent. was ordered on the duties for articles imported by steamers of regular and direct lines, and another rebate of $2\frac{9}{10}$ per cent. for the merchandise brought by regular steamers running between San Francisco, Cal., and Panama.

The German *Kosmos* line has received a subvention of $1,000 for every direct trip between Europe and the ports of Guatemala.

The railway line between Escuintla and the capital, although put in public service on the 15th of September, 1884, has never been officially received. Differences and deficiencies in the details of the contract, as to the execution of the work, were to be submitted to the decision of official engineers, chiefly as to the construction of bridges, wooden ones being used temporarily, instead of iron ones for a permanency. These differences and deficiencies are to be reconciled and the road to be received and the subvention regulated by mutual agreement. This has been accepted, and the executive power proclaimed the contract of July 13, 1880, to be in force and agreed that the payment of the stipulated subvention should be "effectuated" in a term of thirty years instead of twenty-five, which had been previously fixed, deducting $50,000 annually during the first six years.

A railway communication to the Atlantic coast is expected to open next year.

Articles of necessity have been imported from California to be sold at a price so that the poorer classes would not suffer.

Steps have been taken to improve the condition of the army and replenish the stores of arms and ammunition; the militia is to be reorganized on the Prussian basis.

Great attention has been paid to public instruction; 25 primary schools have been opened; 7 have been re-established; 16 have been declared national schools, and subventions have been granted 26. The nurseries of instruction have been increased by 85, and the pupils by nearly 4,000. The sum of $19,543 has been expended by the present Government in buildings and repairs to schools. Inspectors of primary instruction have been appointed.

It was found necessary to abolish the syndicate, owing to the irregularity and neglect in book-keeping, and to regulate the way by which the national treasury would be enabled to replace the abolished establishment.

The decree with regard to pensions was abolished as having a retroactive effect.

A transitory duty has been established on the exportation of coffee, the decree stating that as long as high prices were maintained in the foreign markets $1 would be charged for every hundred weight of the berry exported.

The premium in favor of exports of sugar has been abolished.

A reduction has been made upon the excessive duties charged upon tobacco imported.

Stringent regulations have been enforced to prevent frauds on the revenue, both as to imported and manufactured liquors at home.

A decree which rendered the working of coal mines difficult has been abolished.

Finally, the executive has ordered the settlement of the public debt, appointing a fixed sum for the payment of interest and amortization, as well as a method to collect and verify the payments.

No. 70.

Mr. Hall to Mr. Bayard.

No. 717.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Guatemala, October 7, 1887. (Received November 3.)

SIR: I have the honor to inclose herewith a translation of a note from Señor Montufar, in which he intimates a wish of his Government that the United States should permit their representatives in foreign countries to represent Guatemala in the absence of a Guatemalan minister or consul. The note was written under the erroneous impression, no doubt, that the diplomatic and consular officers of the United States are authorized to represent the Swiss Government in the same manner as they do their own; that is, as if holding its commissions, and as officers of the Swiss Government to conduct its negotiations in foreign countries.

Señor Montufar called upon me yesterday, and I placed before him the two circular instructions of the Department, No. 11, of the 16th of June, and No. 15, of the 15th of December, 1871, which show that the diplomatic and consular officers of the United States are merely authorized to use their good offices in behalf of Swiss citizens, with the consent of the local authorities, in countries and places where no representatives of Switzerland reside. This apparently was not what he wanted. I promised him, however, to communicate his wishes to you, as the same will no doubt have been communicated by the Guatemalan minister at Washington.

I have, etc.,

HENRY C. HALL.

[Inclosure in No. 717.—Translation.]

Señor Montufar to Mr. Hall.

DEPARTMENT OF FOREIGN RELATIONS,
Guatemala, October 4, 1887.

Mr. MINISTER: The United States of America have given their support to Switzerland, which, although a Republic, is a European nation, permitting the ministers and consuls of the American Union to lend their good offices to the Swiss Cantons and to their citizens in those countries where there are no ministers nor consuls of Switzerland.

Guatemala, an American Republic, would see with pleasure the adoption of such a measure in her favor. To-day I instruct our minister at Washington to make the request of the American Government, and I ask you, if there is no objection, to be pleased to write in the same sense so that the request may be well received.

This opportunity, etc.,

LORENZO MONTUFAR.

No. 71.

Mr. Hall to Mr. Bayard.

No. 718.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, October 12, 1887. (Received November 3.)

SIR: With further reference to your instructions numbered 476, 489, 494, and 499, the last dated the 8th ultimo, and to other correspondence relating to the Spanish Central American Line of steamers of the Marquis de Campo, I have the honor to inclose a translation of a contract, concluded on the 1st of July last, between the same party and the Costa Rican Government. This contract stipulates for a rebate of 5 per centum on all merchandise imported by the steamers of that line into the Pacific ports of Costa Rica.

I have postponed until now communicating with the Costa Rican Government, in regard to the above mentioned rebate, for the reason that the general agent of the Pacific Mail Company for Central America had informed me that he had been assured by the local agent in Costa Rica that the Government, following the example of Guatemala and Salvador, would of its own accord extend the same concession to all regular lines of steamers, whether under contract or not. The Government, however, has thus far done nothing of the kind; in the meantime the Spanish Central American steamers have commenced their voyages between Panama and San Francisco I have therefore determined to communicate at once to the Costa Rican Government and in the tenor of your instructions above referred to. A copy of my note of this date to the minister for foreign affairs is inclosed herewith.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 718.—Translation.]

Contract between the Marquis de Campo and the Government of Costa Rica relative to the establishment of a line of steamers between Panama and San Francisco and intermediate ports.

[From La Gaceta Oficial of Costa Rica of the 19th July, 1887.]

No. 41.

The constitutional congress of the Republic of Costa Rica decrees:

ONLY ARTICLE.

The ratification of the contract made in this city the 1st day of the present month, between the secretary of state in the marine department, duly authorized by the President of the Republic, and Carlos F. Irigoyen, in representation of the Marquis de Campo, for the establishment of a line of steamers between Panama, San Francisco, Cal., and intermediate ports, for the service of transportation of passengers, cargo, and correspondence.

The tenor of the contract referred to is as follows:

Apolinar de Jesus Soto, secretary of the department of war and marine of Costa Rica, duly authorized by the President of the Republic, and Carlos Francisco Irigoyen y Montero, etc., resident of Guatemala, in the name and in representation of Señor Don José Campo y Perez, Marquis de Campo, etc., resident of Madrid, capital of the Kingdom of Spain, as per power of attorney in due form exhibited, have agreed to enter into, *ad referendum*, the following contract:

ARTICLE 1.

The Marquis de Campo binds himself with the Government of Costa Rica in the terms hereinafter expressed.

(*a*) To establish a line of mail steamers to ply between San Francisco, Cal., and Panama and intermediate ports, which shall be employed for the service of cargo, and shall have sufficient accommodations for carrying passengers.

The line shall be styled the "Spanish Central American," and shall consist of seven mail steamers, whose names shall be *Centro America*, *Costa Rica*, *Nicaragua*, *Salvador*, *Honduras*, *Guatemala*, and *Mexico*. The two first named shall sail under the flag of Costa Rica, and the others under the flags of the other Republics of Central America.

The company may employ auxiliary steamers, which may carry the Spanish flag, and the latter shall have the same rights and obligations stipulated in the present contract in regard to those previously mentioned.

The steamers shall touch at the port of Punta Arenas, and at any other which the Government may open on the Pacific, at least once a week, with the obligation of remaining therein ordinarily twelve hours, and six hours more when the authority, by notification to the agent or to the captain of the vessel, shall demand it two hours before the time designated for sailing, save in every case the time required for loading and discharging.

The company shall give notice to the marine department of the dates upon which the steamers should arrive at the port or ports of the Republic, and others of the route, according to the established itinerary, and shall also give public notice thereof in the official newspaper. In the same manner notice shall be given of any change in the dates of the arrival of the steamers.

(*b*) To charge as a maximum of freight and passage the rates designated to-day in the tariff of the Pacific Mail Steam-ship Company, with a rebate of 20 per cent. in addition; the passages are payable in soles, in money of Guatemala or Honduras, or in their equivalent in Costa Rican money. But for material and munition of war, as well as any other articles which the Government may import for its own account, the company shall rebate 25 cents from its adopted tariff.

(*c*) To give, upon the order of the respective departments, a free passage in its steamers from Costa Rica to any of the ports of their itinerary, and *vice versa*, to the diplomatic ministers and employés of the Government traveling in commission. In addition to this there shall be placed at the disposal of the Government every year four first-class round passages between San Francisco and Panama or intermediate ports.

(*d*) To carry at half the tariff rates troops in the service of the Government upon the presentation to the agent or supercargo on board of the order of the respective department in which the class of passage to be given shall be designated. Also to carry for one-half the steerage rates laborers arriving in or leaving the Republic with the authorization of the Government, the fact to be verified by a competent authority. In either case, upon an emergency, the order may be given by the captain of the port.

(*e*) To receive on board the steamers each year and to maintain at his expense four young men, who, in the opinion of a commission appointed by the Government, have made the needful studies to become apprentices in navigation; four others, two of whom to learn engineering and two the duties of quartermaster, and twelve others to acquire the knowledge and practice of wheelmen.

The four first, after two years, shall be examined, and should they prove to be fitted, shall receive a diploma, and they shall be employed according to their class and the wages assigned the station; the next four and the twelve last named shall earn wages from the time they are received on board, and these, as well as those previously mentioned, shall not be dismissed from the service, except for faults of a grave character or for manifest incapacity.

The company is bound to notify the minister of marine, when for any of the causes mentioned in the foregoing paragraph the apprentices may be dismissed, so that the Government may replace them.

(*f*) To carry the mails of Costa Rica in his steamers for the places at which they may touch, and those for the Republic that may be delivered to the steamers, as also to be responsible for their care and preservation on board. The correspondence shall be delivered and received by the intermediary of the postmasters.

The officers of the steamers are prohibited absolutely from receiving letters outside of the mails, except those that may be delivered on the high seas or after the closing of the mails; but in such cases the letters shall be delivered to the authorized functionaries of the Government, who shall collect the postage thereon, unless already franked with stamps.

Notwithstanding, the company may carry outside, apart, all letters or papers of or from its employés, and upon the business of the company.

The correspondence must be delivered alongside of the steamer, and the captain shall be bound to receive it at any moment up to the hour of sailing.

(*g*) To prove, under penalty of $100 fine for each infraction, should it be necessary, that a steamer may have been compelled by circumstances to sail without awaiting the corresponding permit of the captain of the port.

(*h*) To submit to a fine of $200 for each failure of the steamer to touch at the port or ports of the Republic upon the designated dates, it being understood that if it should occur three times consecutively the fine shall be $500, and if four times consecutively the fine shall be $1,000, and if the failures should be five or more times consecutively the Government shall have the right to collect as a penalty $2,000 for the last, and in addition to declare the contract to be *de facto* rescinded.

(*i*) Not to carry on board of their steamers troops or elements of war from the ports of their itinerary to the territory of the republic without the express consent of the Government, and in every case the company bind themselves not to land arms nor ammunition of the class before mentioned in the ports of the nation, unless expressly consigned to the Government.

(*j*) To observe strictly the laws and regulations relative to maritime traffic, saving the exceptions contained in this contract.

ARTICLE 2.

The Government of Costa Rica binds itself with the contractor, the Marquis de Campo.

(*a*) *To rebate 5 per cent. from the customs duties upon whatever merchandise may be imported by the steamers of the line in the ports of the Pacific.* But the company may import, free of customs duties, stores and utensils, purely naval, required for its vessels, conditional with a previous presentation of a memorial to the treasury department, so that note thereof may be taken and the respective authorization conceded if in conformity with the stipulations of this contract.

(*b*) Not to demand of the steamers of the company for all port dues more than $10 in the aggregate each time that one of them touches at the port or ports of the country upon their contracted service; and to exempt the movable and immovable property of the company in the Republic for maritime service from taxes of every kind, which in future may be levied.

(*c*) To concede to the company gratuitously eighteen lots of public land in the port or ports at which the vessels may touch in fulfillment of this contract for the construction of buildings and for marine service.

(*d*) To instruct the captains of ports to receive and dispatch the steamers without delay, by day and by night, the company paying for the extra labor of the employés.

(*e*) To give the company a pecuniary subvention of $10,000 a year during the five first years, and $8,000 a year during the remaining five, said subvention to be payable monthly in current money of the Republic, commencing from the 16th day of December, 1888, upon which the existing contract between the Pacific mail steamers shall cease.

(*f*) *Not to concede to any other company or companies greater advantages than those which by this contract are conceded to Spanish Central American line of steamers in whatever relates to the service between San Francisco and Panama.*

ARTICLE 3.

The duration of this contract shall be for ten years, commencing in conformity with clause (*e*) in the foregoing article on the 16th of December, 1888. Notwithstanding, with the exception of the pecuniary subvention, both contracting parties agree that the service of the Spanish Central American Line shall commence on the first of October of the present year, with all other covenanted obligations and rights.

ARTICLE 4.

The contractor may transfer or hypothecate by whatever title the line of steamers mentioned in this contract, it being understood that such transfer or hypothecation shall not be in favor of any foreign Government nor to the prejudice of the stipulations in this convention.

ARTICLE 5.

In case the Panama Canal should be opened during this contract, the company may propose to the Government a modification or amplification of its conditions; but if it should not be accepted, the said contract shall for the same reason terminate.

ARTICLE 6.

The capital of the company, wherein it does not conflict with the foregoing clauses, shall be considered as foreign capital.

ARTICLE 7.

The company shall have an agent in the capital of this Republic with sufficient powers to represent it in all cases.

ARTICLE 8.

Every question which shall arise between the contracting parties with respect to its rights and obligations shall be submitted, in accordance with the laws of the country, to the decision of the arbitrators, one named by the Government and the other by the company; and if they should disagree in their report, it shall be decided by a third, to be mutually agreed upon by the same arbitrators at the time of accepting their appointment.

ARTICLE 9.

This contract is subject to the approbation of the legislature of the Republic.

In faith whereof they sign the present contract at the national palace of San José, the 1st day of July, 1887.

A. DE JESUS SOTO.
CARLOS IRIGOYEN.

PRESIDENTIAL PALACE.

Let the foregoing contract be approved and submitted to the Constitutional Congress for its ratification.

SOTO.

To the executive power.

Given in the hall of sessions of the national palace at San José the 16th day of July, 1887.

A. ESQUIVEL,
President.
MAXIMO FERNANDEZ,
Secretary.
FRAN'CO M. FUENTES.
Proto-Secretary.

Let it be executed.

SOTO.

[Inclosure 2 in No. 718.]

Mr. Hall to Señor Esquivel.

GUATEMALA, *October* 12, 1887.

Mr. MINISTER: The Department of State of the United States in several of its instructions to the writer assumes that the rebate in customs duties which the Government of Costa Rica has recently granted to the so-called Spanish Central-American line of steamers is contrary to the spirit and intentions of all modern treaties of commerce and friendship, and especially to the spirit and intentions of the existing treaty of friendship, navigation, and commerce between the United States and that Republic.

Under date of the 1st July last past, as appears in the official newspaper of Costa Rica of the 19th of the same month, a contract was concluded between the Government of your excellency and Don Carlos F. Irigoyen, as agent of the Marquis de Campo. This contract (article 2, clause *a*) stipulates, in addition to a money subsidy, for a rebate of 5 per centum in custom duties upon all merchandise imported into Costa Rica by vessels of that line; it stipulates also that this privilege shall not be extended to any other line of steamers during the existence of the contract (article 2, clause *f*); elsewhere in the contract it is provided that the duration of the contract shall be ten years.

The first-mentioned stipulation practically closes the import trade of the Pacific ports of Costa Rica to American vessels for a period of ten years; it excludes them from participation in the same import trade from San Francisco and any other ports of the United States on the Pacific. Article 2, clause *f*, appears to be contrary to the spirit and intentions as well as the letter of Article 3 of the before-mentioned treaty.

The treaty of 1851 between the United States and Costa Rica stipulates that there shall be reciprocal freedom of commerce between the two countries. It also stipulates, substantially, that no higher duties shall be collected upon merchandise im-

ported into Costa Rica in vessels of the United States than shall be collected upon merchandise in vessels of any other nationality; at all events, it will no doubt be apparent to your excellency that the framers of that treaty could have never contemplated the possibility that merchandise imported into Costa Rica by American vessels would, under any circumstances, ever be subjected to higher duties than those imposed upon merchandise imported by the vessels of any other nationality whatsoever.

My Government would be very reluctant to imagine even that the Government of your excellency entertains the unfriendly purpose of excluding vessels of the United States from the import trade of the Pacific ports of Costa Rica, and to compel American shippers of San Francisco and other ports of the United States to make use of the so-called Spanish Central American Line in order to enjoy the rebate of 5 per centum in duties; still, as the contract now stands, there can hardly be any other conclusion. As an example of the injustice and inequality of this rebate of 5 per centum, it is alleged that upon very many classes of goods it will exceed the amount of freight money from San Francisco, New York, and even from Europe by every route.

In the same connection I am authorized by my Government to say that the proposed alterations of the national customs tariff for the benefit of a special enterprise, as in this instance, overpass all legitimate limits of subsidies to vessels, and operate to destroy American shipping interests, which have been built up in good faith and in the faith of treaties, and that the differential duties it is proposed to establish to the prejudice of those interests call for an urgent protest. Should its respectful representation be insufficient, my Government will be compelled, however reluctantly, to recommend to the Congress of the United States the adoption of some legislation which will effectually protect those interests, and if it should result in the imposition of differential duties upon the products of Costa Rica imported into the United States by the Spanish Central American Line, the Government of your excellency will surely have no just cause to complain.

But to avoid such retaliatory measures and to promote by all legitimate means the friendly relations of commerce between the two countries, I beg leave respectfully to suggest that your excellency's Government shall immediately extend to all vessels of the United States arriving at the Pacific ports of Costa Rica the same rebate of 5 per centum in duties which have been accorded to the Spanish Central American Line.

My Government has a right to expect such a resolution of your excellency's Government as being in accord with treaty stipulations; it would, moreover, obviate further controversy upon a disagreeable subject.

I trust these observations will be received in the same friendly spirit in which they are offered, and in the interests of the cordial relations which have always subsisted between the United States and Costa Rica.

With renewed assurances, etc.,

HENRY C. HALL.

No. 72.

Mr. Hall to Mr. Bayard.

No. 729.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,

Guatemala, October 31, 1887. (Received November 22.)

SIR: On the night of the 27th instant Col. Don Vicente Castañeda, Constitutional Vice-President of Guatemala, at the head of an insurgent force of about two hundred men, invaded Huehuetenango, an important town near the frontier of Mexico, and attempted to seize the military quarters; after two hours' firing the insurgents were repulsed. Castañeda was captured the next day at the neighboring town of Chiantla, and yesterday morning was shot, as also were four of the principal officers that accompanied him.

Almost simultaneously with the affair at Huehuetenango another insurrectionary movement was frustrated near the frontier of Salvador; four of the leaders were captured and have since been shot.

It appears that these revolutionary attempts were intended to have been made two months ago. It is said that the affair at La Union,

Salvador, the night of the 5th of September, reported in my No. 703, of the 13th of that month, was a part of the plan.

After the failures referred to, the insurgent organizations have broken up and the forces have dispersed; it is believed that no more attempts will be made, as it is evident that the movement has met with no popular response or sympathy.

The inclosures herewith contain the official and unofficial reports published by the Government and, I have no doubt, are trustworthy.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 729.—Translation.—Supplement to "El Guatemalteco," 28th October, 1887.]

Public tranquillity assured.

The public is already aware that a party of bandits, led by Mariano Pineda, Jorge Zepeda, José Arzú, and Juárez, have been scouting through different places of the departments of Guatemala, Santa Rosa, and Jalapa, closely followed up by the forces of the Government, meeting with no sympathy in any of the villages and hamlets through which they passed; but, on the contrary, finding that in those same localities the inhabitants were arming with the purpose of capturing them, they were compelled to disperse; some went in the direction of Alzatate to reach from thence the Soledad Mountain, others presented themselves to the chiefs of the Government forces sent in their pursuit.

Among those who fled to the mountain were the above-mentioned four chiefs, but the Indians of Alzatate pursued them closely and captured two; the others were compelled to leave the neighborhood; the chiefs, considering themselves lost and being destitute of all resources, decided to take refuge in the territory of Salvador; with that object they fled in the direction of Jutiapa and, in passing Tasajera, were captured by the commandant, Pedro Cambara.

Last night they were conducted to headquarters at Jutiapa, where they will be tried according to military laws.

While the Government was giving its orders in regard to the foregoing a dispatch came from the telegraph operator of Huehuetenango reporting that the garrison was attacked and that a lively firing against the military quarters was going on. A few moments later he amplified his dispatch stating, that Colonel Don Vicente Castañeda, with forces of Chiantla, a neighboring town, was the attacking party; an hour and a half later the following telegram was received:

"HUEHUETENANGO, *October* 27, 1887.

"*To the President:*

"At 7 p. m. Don Vicente Castañeda invaded this place, was repulsed by the twenty-five men of the garrison, and retired after two hours firing; we lost on our side, killed, a lieutenant and two soldiers. The insurgents left a sublieutenant and three soldiers, killed, and carried away others of their dead; they also left two wounded soldiers. We had three soldiers wounded.

"It was impossible to estimate the number of the force. Mariano Casteñeda, a relative of the chief, and two officers named Castellanos accompanied him.

"FRANCISCO FUENTES."

Telegraphic orders were given immediately to the commanders of Quezaltenango, San Marcos, and Quiché, to march with their forces of upwards of two thousand men to the aid of Huehuetenango; order was re-established there, as in Chiantla, when Casteñeda with fifteen other persons were captured.

Casteñeda's treason has the double stain of having been false to his military duties, inasmuch as he was in the active service of a Government which had treated him wi h all kinds of consideration, and of having reciprocated with base ingratitude the social importance and the promotions which General Barillas had given him.

The affairs of Palencia and Huehuetenango demonstrate once more that the towns of the Republic will not now rise up as in former times at the voice of the first ambitious leader who would make them the instruments of his ignoble designs. The Government applauds the conduct of the several chiefs, the troops and inhabitants of the Orient and Occident, who have contributed to the maintenance of public order and have severely punished those who attempted to subvert it.

[Inclosure 2 in No. 729.—Translation.—From "El Guatemalteco" of 30th October, 1887.]

Execution of insurgent chiefs in Guatemala.

[Telegram from General Pimental to President Barillas.]

JUTIAPA, *October* 29, 1887.

To the President:

After having made the required investigation, in conformity with the requirements of the law, I ordered the insurgent chiefs, Mariano Pineda, Jorge Zepeda, José Arzú, and Antonio Juárez, belonging to the band of which you are already informed, to be shot.

S. PIMENTAL.

CHIANTLA, *October* 30, 1887.

To the President:

At this moment, 6 a. m. ex-Col. Vicente Castañeda, ex-Lieuts. Ismael Diaz and José Muñoz, and ex-Sublieuts. Matias Cifuentes and Francisco Alonzo, convicted of military sedition, have been executed with the formalities of the law.

LUIS MOLINA.

[Inclosure 3 in No. 729.—Translation.]

Proclamation of President Barillas.

Manuel Lisandro Barillas, general of division and President of the Republic of Guatemala, to the Guatemalans:

FELLOW-CITIZENS: In assuming the unlimited powers given me by the decree of of 26th June, my purpose was to make use of them with so much moderation and forbearance that not a tear should be shed for political causes. In pursuance of this purpose the gubernative action was so directed that there was no imprisonment and no expulsion until the moment when for powerful reasons, of which you are all well aware, it became necessary to expel Archbishop Ricardo Cazanova from the territory of the Republic.

On the 1st of October the constituent assembly was installed. I gave account to it of all my official acts, and in the naration is to be found no other act of severity than the indispensable expulsion of Señor Cazanova.

The constituent power approved on that same day, by acclamation, the decree of the 26th of June, and was pleased also to extend a vote of thanks to the executive power. I awaited the happy moment when the new fundamental law should be placed in my hands to enter upon a constitutional regimen, without any Guatemalan or inhabitant of this Republic having undergone molestation.

But fate had proposed for Guatemala a situation that was not in my peaceful, lenient, and mild programme. There are persons and political circles to whom alternation in power is not acceptable; they consider themselves designated by special privileges always to command and never to obey. It is of no importance to them that their estates are secure, that in their persons they enjoy the most ample guaranties, that they enjoy tranquillity, unless they have absolute power, unless they have the people subject to their order like a flock of lambs; and if they do not guide so that not a ray of the light of modern civilization can penetrate, they will always be making efforts to place themselves at the head to dominate so that the country may return to the dark night of those thirty years. I shall present you proofs of all this.

On the 28th of September the Government had notice that on the frontier of Salvador a party of insurgents had risen up, and, led by Salvador, Sandoval, José Aguilar, and one Tinoco, said to be a Nicaraguan general; it knew very well that the movement had been planned and was directed by some of the strongest reactionists of the capital of Guatemala who also supplied it with resources.

I abstained from proceeding against them and even from making investigations which might result in a punishment which was not in accord with my adopted programme, and I devoted my efforts solely to breaking up the faction. The result was a happy one, due to the energy of General Pimental, commandant at Jutiapa, to the activity of the commandants of Chiquimula Jalapa, Zacapa, and Santa Rosa and to the officers under them, and to the loyalty and good sense of the inhabitants of the towns which, though in contact with the insurgents, resisted their persuasions.

Thanks, also, to the Government of Honduras, which manifested its desire to co-

operate in the extermination of the insurgents, and to the good offices of the Government of Salvador, which, like a true friend, has been a loyal sentinel of tranquillity and order, this moment was not isolated.

Proceeding from Palencia, a party led by Mariano Pineda, Jorge Zepeda, José Arzú, and Antonio Juárez scoured several points of the departments of Guatemala, Santa Rosa, and Jalapa. It was closely pursued by the forces of the Government, and found no sympathy whatever in the hamlets through which it fled. Instead of support, they met with persecution. The inhabitants spontaneously took up arms to capture them, and in this situation they were compelled to disperse, some taking the direction of Alzatate to reach the Soledad Mountain, while others presented themselves to the chiefs sent in their pursuit and solicited protection. The Indians of Alzatate followed up closely those who went in that direction.

The insurgent chiefs, destitute of resources, and believing themselves lost, attempted to reach Salvadorian territory through the department of Jutiapa, and at a place called Tasajera were captured by the commandunt, Pedro Cambara. Orders were given immediately to conduct them to headquarters at Jutiapa, where, after the regular trial, Pineda, Arzú, Zepeda, and Juárez were shot.

This is not all what happened in the Republic. On the night of October 27, the post commander of Huehuetenango notified the commander of the department, Francisco Fuentes, that there was a group of armed men near the city. The garrison was placed under arms and the militia was called together; but before the corps of guards could arrive the insurgents penetrated into the principal square; they were led by Vicente Castañeda (vice-president of Guatemala), who harangued his men with shouts, crying that he was going to be President of the Republic. Fuentes defended the place bravely during two hours of firing, several dead and wounded on both sides remaining on the field.

The routed insurgents were captured and tried with the formalities of the law, and to-day at 6 a. m. ex-Col. Vicente Castañeda, ex-Lieuts. Ismael Diaz and José Muñoz, and ex-Sublieuts. Matias Cifuentes and Francisca Alonzo suffered its extreme penalty.

When the news of the attack on Huehuetenango was received orders were sent to the commanders of Quezaltenango, Quiché, and San Marcos to send aid, and I am very satisfied not only with the activity with which these forces were mobilized, the enthusiasm of the chief in command, the celerity with which they repaired to the point indicated under the orders of General Molina, but with the loyalty manifested in deeds by the peoples of the Republic, both in the Orient and Occident.

Compatriots: The blood shed in battles is to be regretted, and still more when shed on the scaffold, but the responsibility of such effusion falls not upon the Government acting in self-defense, but upon the insurgents who combat it in all possible ways without excepting the most execrable of all, treason to the Republic.

Guatemalans: Whatever may be my own ideas in regard to the inviolability of human life, the military laws which have been placed in my hands to be enforced, and which I have promised faithfully to observe, impose the penalty of death upon those who, with arms in their hands, attempt to pervert public order.

Inhabitants of the Republic: I have been placed under the necessity of exercising acts of severity which are not in harmony with my sentiments, but it is not possible for me to witness with indifference the public peace menaced, and our dearest interests in danger. I shall continue, to my great regret, the course of severity, in which unfortunately I have been placed, if the acts of justice accomplished at Jutiapa and Huehuetenango should not suffice to insure order and progress, institutions which are of the first and greatest necessity of the country.

Guatemala, October 30.

M. L. BARILLAS.

No. 73.

Mr. Bayard to Mr. Hall.

[Extract.]

No. 516.] DEPARTMENT OF STATE,
Washington, November 2, 1887.

SIR: I have to acknowledge receipt of your No. 710, of September 28, concerning the proposed Spanish Central American line of steamers, and to say that the Department has also received from the vice-president and the secretary of the Pacific Mail Steamship Company letters bearing upon that subject.

Copies of this correspondence were promptly submitted to the Secretary of the Treasury, with a view to the application of the provisions of section 2502 of the Revised Statutes of the United States. Pending final decision by the fiscal authorities, however, a letter was received from the secretary of the Pacific Mail Company, dated the 17th instant, saying that they were in receipt of advices to the effect that the discriminating duty imposed by Guatemala against American vessels would soon be withdrawn, and expressing the belief that the other States of Central America would recede from their unjust position in this regard.

A copy of this letter was likewise communicated to the Secretary of the Treasury, who, under date of the 25th ultimo, replied that unless further advised his Department would take no action at present toward exacting the discriminating duty prescribed by section 2502 of the Revised Statutes.

This conclusion, it may be observed, is evidence of the good will and indisposition of the United States to take advantage of the situation while a prospect of satisfactory adjustment remains, and it is earnestly hoped that the early removal by Guatemala of any discrimination against vessels of the United States, and the recession of the other Central American States from their present unjust position in this regard, will save the Government of the United States the necessity of entering upon a course of retaliation which can not fail to disturb our hitherto beneficial relations.

I am, etc., T. F. BAYARD.

No. 74.

Mr. Bayard to Mr. Hall.

No. 517.] DEPARTMENT OF STATE,
Washington, November 5, 1887.

SIR: I have to acknowledge the receipt of your No. 718, of the 12th ultimo, in the matter of the Spanish Central American Line of steamers, and the contract with the Government of Costa Rica granting a rebate of 5 per cent. on all merchandise imported by the steamers of that line into the Pacific ports of that Republic.

I have inclosed a copy of your dispatch to the Secretary of the Treasury, calling his attention to your note to the Costa Rican minister for foreign affairs protesting against this unfavorable treatment of American commercial interests, and intimating that unless our vessels were accorded the same rebate, this Government might find it necessary to apply retaliatory measures.

Your action in the premises is approved.

I am, etc., T. F. BAYARD.

No. 75.

Mr. Bayard to Mr. Hall.

No. 523.] DEPARTMENT OF STATE,
Washington, December 6, 1887.

SIR: I transmit a copy* of an affidavit by Henry Nelson, master of an American steam-tug, *William S. Moore*, in which he states that on No-

* See inclosure 2 in document No. 84.

vember 20, 1887, while lying at anchor in the Rama River, Mosquito Reservation, his vessel was forcibly seized by an armed body of Nicaraguan troops or persons wearing uniforms of the Nicaraguan soldiers.

You will present the complaint to the minister for foreign affairs, with a view to an investigation thereof and proper explanation or reparation, as the facts of the case may require.

I am, etc.,

T. F. BAYARD.

No. 76.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 749.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,

Guatemala, December 8, 1887. (Received January 4.)

SIR: With my dispatch No. 450, of November 20, 1885, I transmitted a copy of a contract between the Guatemalan Government and one Martin Roberts for the construction of the so-called "Northern Railway of Guatemala," by which it is proposed to connect this capital with the Atlantic sea-board. Mr. Roberts, it appears, did not succeed in inducing New York capitalists, fortunately for themselves, to invest in that scheme, and nothing has since been heard of it.

The Government has again entered into another contract, for the same object, with Mr. John T. Anderson, merchant and United States consular agent at Livingston. Mr. Anderson is a native of Canada, and a naturalized citizen of the United States. To carry out his enterprise he proposes, I understand, to form a company in New York City and to incorporate it under the laws of that State.

This railway was undertaken by the Guatemalan Government in 1883 and abandoned in 1885, soon after the death of President Barrios. During all of that period and for a year later it was a source of constant trouble and annoyance to the Department as well as to this legation. The construction of the first 60 miles was contracted for with Messrs. Shea, Cornick & Co., who brought out large numbers of laborers from New Orleans, and others followed who were not contracted, but ostensibly in search of work on the railway.

The reports that reached me of the want, destitution, sickness, and mortality among those laborers were such that I deemed it my duty to invite the Department's attention to the matter and to suggest that a naval vessel should be sent to Livingston to convey the destitute laborers to New Orleans, from whence most of them came. In accordance with my suggestion, the U. S. S. *Swatara* was sent to that port and many of the laborers found to be in a deplorable state of destitution were taken on board and carried back to New Orleans. The Commander reported to his Department that the prompt arrival of the *Swatara* at Livingston was, no doubt, the means of saving many lives.

Soon after these occurrences the new government of Guatemala failed to observe its contract with Messrs. Shea, Cornick & Co., who, in consequence, were compelled to make an assignment of their claims against the government to their creditors. The creditors through their

syndics made two successive adjustments of the claims with the government, both of which were in succession repudiated, and then the matter became the subject of a long correspondence between the creditors, the department, and this legation, which did not terminate until a year later.

I have the honor to inclose an English version of the contract with Mr. Anderson, and to invite the Department's attention to Article IX, relative to the right of the contractor to import laborers and the obligation of the Government to employ all the means in its power to enforce the contracts made abroad with such labor.

The means that would probably be employed for that purpose would be the imprisonment of the laborer or other arbitrary methods, such as are employed in the coolie system, and could not, I imagine, be permitted to be applied to laborers contracted in the United States.

The present government of Guatemala is, no doubt, disposed to carry out this latest contract in good faith, but there is no assurance that any other government which might succeed it would be favorably inclined.

I have, etc.,

HENRY C. HALL.

[Inclosure in No. 749.]

Contract between the Guatemalan Government and John T. Anderson—Northern Railway of Guatemala.

[Extract.]

ARTICLE IX.

The enterprise, with the exception of Chinese, has the right to import the number of workmen it may need, and the government will employ all means in its power to enforce the contracts they make with the enterprise; said contracts will be considered valid in the republic, although celebrated in a foreign country; this will be consigned in the respective contracts.

No. 77.

Mr. Hall to Mr. Bayard.

No. 750.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,

Guatemala, December 8, 1887. (Received January 4, 1888.)

SIR: Under date of the 6th of July last, the Costa Rican Government concluded a contract with one of its citizens, named Pedro Terrés, for the establishment of a line of sailing vessels between Port Limon on the Atlantic, and ports of Europe; in this contract the government concedes a rebate of 5 per centum in customs duties on all merchandise imported into Costa Rica by those vessels, and exemption of the vessels from light and tonnage dues. By a subsequent decree, the same rebate and concessions are conceded to the vessels of Terrés on the Pacific.

From the fact that these vessels are to sail under the Costa Rican flag, it would seem that the exceptional privileges they enjoy are in conflict with articles IV and V of the treaty of 1851, between the United

States and that republic, which place the vessels of both nations upon a footing of absolute equality in the ports of each other. I respectfully invite the Department's attention to the translations, herewith inclosed, of the contract and decree referred to.

I have, etc.,

HENRY C. HALL.

[Inclosure in No. 750.—Translation.—From La Gaceta de Costa Rica, July 7, 1887.]

Contract between the Costa Rican Government and Señor Terrés.

Apolinar de J. Soto, secretary of state in the department of war, duly authorized, on the one part, and of the other part Pedro Terrés y Ruis, of age, married, merchant, and resident of this city, have concluded the following contract:

ARTICLE 1.

Senor Terrés binds himself—

(*a*) To establish between the port of Limon, of this republic, and the European ports that may suit his interests, a regular and constant service of transports by means of the sailing vessel *Anita*, matriculated in this country, and the other vessels of the same class that he may hereafter choose to establish, with the object of conveying the products of this republic to Europe and of bringing merchandise destined to the same, at a reduced rate of freights, in benefit of the commerce of this country.

(*b*) To make a rebate of 25 per centum in the freight upon effects for the government brought by his vessel.

(*c*) Not to permit on board of his vessels the transportation of troops or munitions of war to the territory of the republic without the express consent of the government, nor to land any arms or war materials in the ports of the nation unless coming consigned to the government.

(*d*) To place eight passages, annually, by his vessels going to and returning from Europe to this republic and *vice versa*, at the disposal of the government.

(*e*) To place his vessel or vessels at the disposal of the same government, whenever solicited, at an equitable remuneration.

ARTICLE 2.

The Government of Costa Rica, in conformity with the decree No. 30, of the 4th instant, of the constitutional congress, concedes a rebate of 5 per centum from the custom duties upon the merchandise imported into the country at the port of Limon by the vessel or vessels of Señor Terrés, during the term of this contract; it being understood that inasmuch as the said vessels sail under the flag of Costa Rica, they are exempted from the payment of light and tonnage dues in conformity with Article 15 of the fiscal code.

ARTICLE 3.

The duration of this contract shall be for five years from the date of its approval by the president of the republic. In case that Señor Terrés, for any cause, should not be able to keep up the service during the time stipulated, he shall give opportune notice thereof to the government, so that it can decide as to the rescission of this contract.

ARTICLE 4.

This contract may be transferred by the contractor to any person or company whatsoever, but to no foreign government.

In faith of which they sign the present contract in the national palace at San José on the 6th day of July, 1887.

A. DE J. SOTO,
PEDRO TERRÉS.

PRESIDENTIAL PALACE,
San Jose, July 6, 1887.

The foregoing contract approved.

SOTO.

No. 55.

The constitutional congress of the Republic of Costa Rica, at the solicitation of Don Pedro Terrés, and in use of the powers conferred by the seventy-third article of the constitution,

DECREES.

Only article.—The authorization given to the executive power by decree No. 30, of the 4th instant, is hereby amplified to the effect that the same concessions shall be granted to the vessels owned by Señor Terrés which navigate the Pacific as have been given to the vessels which he intends to establish on the Atlantic, conditional with his rendering in compensation the same service to the satisfaction of the executive.

To the executive power given in the hall of sessions of the national palace at San José, the 29th day of July, 1887.

A. ESQUIVEL,
President of Congress.
MAXIMO FERNANDEZ,
Secretary.
MANUEL J. JIMENEZ,
Proto. Secretary.

PRESIDENTIAL PALACE,
San José, July 30, 1887.

Let it be executed.

SOTO.

No. 78.

Mr. Bayard to Mr Hall.

No. 525.] DEPARTMENT OF STATE,
Washington, December 9, 1887.

SIR: In connection with my 517 of the 5th ultimo, concerning the contract between the agent of the Spanish Central-American line of steamers and the Government of Costa Rica, touching the rebate of 5 per cent. on importations in those steamers, I have now to apprise you of the receipt of a letter from the Acting Secretary of the Treasury, dated the 14th ultimo, saying that in view of the statement of the agent of the Pacific Mail Steam-ship Company, the parties most interested, and of which report is made in my No. 516 of the 2d ultimo, to the effect that the Central American governments are expected shortly to withdraw the discrimination against vessels of the United States, that Department does not deem it expedient to take any action at present in the matter, but asks this Department to advise it of any further developments.

I am, etc.,

T. F. BAYARD.

No. 79.

Mr. Hall to Mr. Bayard.

No. 751.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, December 10, 1887. (Received Jan. 4, 1888.)

SIR: With my dispatch No. 718 of the 12th of October last, I transmitted a copy of my note of the same date to the minister for foreign

affairs of Costa Rica, relative to the rebate of 5 per cent. in customs duties which that Government concedes to all merchandise imported into the Pacific ports of Costa Rica by the steamers of the so-called Spanish Central American line plying between Panama and San Francisco.

I have now to inform the Department that up to this date I have received no reply to or acknowledgment of the note referred to, although I have reason to believe that it has been in possession of the minister for the past six weeks or more.

In the mean time four steamers of the before-mentioned line are plying between Panama and San Francisco, all of them enjoying this 5 per cent. rebate in the port of Punta Arenas; this alone is sufficient to exclude the Pacific Mail Company's steamers and all other American vessels from the import trade of Costa Rica in her ports on the Pacific.

One of the steamers of the Central American or Campo line is named the *Costa Rica* and sails under the Costa Rican flag.

It has been contended that this rebate, if conceded to vessels of a distinct nationality, is not contrary to the treaty stipulations of the United States with these republics. I do not believe that the Department is prepared to admit such a claim, but while there might be the shadow of a doubt on this point as regards the vessels of other nationalities, there can be, in my judgement, none whatever that the Government of Costa Rica in granting such rebate to vessels sailing under the Costa Rican flag, to the prejudice of the commerce of the United States, totally disregarded its treaty obligations.

The treaty of 1851, between the United States and Costa Rica, provides, among other stipulations, for reciprocal freedom of commerce. Article VI provides, substantially, that the same duties shall be paid upon importations into Costa Rica, whether the same shall be made in Costa Rican vessels or in vessels of the United States.

I inclose herewith a translation of a letter from the Costa Rican consul at Panama to the minister of foreign affairs of Costa Rica, announcing the arrival at that port on the 6th of September last of the steamer bearing the name and sailing under the flag of that republic; a copy of a letter dated October 25, from the consul of the United States at San José, in answer to my inquiries as to whether the rebate referred to is being carried out, and copies of two letters upon the same subject, from Mr. Leverich, the special agent of the Pacific Mail Steamship Company in Central America, to all of which I beg to invite the Department's attention.

As Costa Rica discriminates in her Pacific ports against vessels of the United States and their cargoes, and in favor of her own flag, it is but just that the discrimination provided for by section 2502 of the Revised Statutes should be applied to Costa Rican vessels and their cargoes in the port of San Francisco.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 751.—Translation.]

Consul Boyd to Señor Esquivel.

CONSULATE OF COSTA RICA,
Panama, September 23, 1887.

Mr. MINISTER: I have the honor to inform you that the national steamer *Costa Rica*, Capt. Don José Asín, of the line of the Marquis de Campo, arrived at this port on the 6th instant.

She is a beautiful vessel of 4,000 tons register, three masts, new machinery of 2,000

horse-power; she employed 53½ days on the voyage fron Antwerp to Panama, subdivided as follows:

Antwerp to Buenos Ayres, twenty-seven days; Buenos Ayres to Port Coronel, fifteen days; Port Coronel to Panama, eleven and one-half days; notwithstanding bad weather.

I am pleased to certify that Commander Asín brings all of his documents in order, and upon these conditions she will clear to-day for Champerico, touching on her return at Punta Arenas.

In congratulating the supreme government upon the inauguration of this line, which is destined to promote development and progress in that republic in its manifold interests,

I beg, etc.,

SAMUEL BOYD,
Consul.

[Inclosure 2 in No. 751.]

Mr. Wingfield to Mr. Hall.

CONSULATE OF THE UNITED STATES AT SAN JOSÉ, COSTA RICA,
October 25, 1887.

SIR: In reply to your letter of the 12th October, 1887, I understand that the contract between the Costa Rican Government and the Spanish American Line of steamers, by which a rebate of 5 per centum on duties upon merchandise brought upon said steamers is allowed, is being carried out.

I am, etc.,

J. RICH'D WINGFIELD.

[Inclosure 3 in No. 751.]

Mr. Leverich to Mr. Hall.

AGENCY PACIFIC MAIL STEAM-SHIP COMPANY,
Guatemala, November 9, 1887.

SIR: At La Libertad, on the 4th instant, I found a quantity of cigars stored awaiting shipment to Costa Rica per Marquis de Campo Line. I offered to take them at the same rate of freight which the Campo Line charges; 20 per cent. less than our tariff. The owner, however, refused my offer on the ground that Costa Rica allows a rebate of 5 per cent. in the duties on merchandise imported by the Campo steamers.

I bring this to your attention to show you how impossible it is for this company to compete with the Campo Line while these discriminating duties exist.

I am, etc.,

J. H. LEVERICH,
Special Agent.

[Inclosure 4 in No. 751.]

Mr. Leverich to Mr. Hall.

AGENCY PACIFIC MAIL STEAM-SHIP COMPANY,
Guatemala, December 9, 1887.

SIR: I beg to transcribe for your information the following extract from a letter which I have received from this company's agent at Punta Arenas (Costa Rica) dated the 24th ultimo:

"The matter of the 5 per cent. rebate is still in the same shape; this protection of the Campo Line induces importers to give it the preference over ours, especially for all articles paying high duties, like cigars, which pay $2 per kilogram.

"The *Guatemala* brought to this port 80 tons of different kinds of goods from San Francisco."

The foregoing will suffice to show you how handicapped this company is in meeting this competition against a discriminating customs duty of 5 per cent. in favor of the Campo Line.

* * * * * * *

J. H. LEVERICH,
Special Agent.

No. 80.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 752.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, December 10, 1887. (Received January 4, 1888.)

SIR: I have the honor to acknowledge the receipt of your instructions, No. 516 and No. 517, of the 2d and 5th ultimo, in regard to the rebate in customs duties conceded to the Spanish Central American Line of steamers by the Governments of some of these Republics.

The Guatemalan Government has not withdrawn the discriminating duty of one-tenth of 1 per cent. against American vessels in its Pacific ports, nor is there any probability that it will be done until some opportunity occurs for abrogating its contract with that line.

The Nicaraguan Government has withdrawn the rebate of 2 per cent. it had conceded to the same line. I have had no official correspondence with them on the subject, but while in Nicaragua, in August last, I was able to convince President Carazo and his minister for foreign affairs that the concession was contrary to the treaty of 1867. I was promised also that the rebate should be withdrawn, and I am informed by our consul at Managua that it has been done.

The Government of Honduras concedes a rebate of 2 per cent. in customs duties to the above-mentioned steamers and has taken no action towards annulling it.

In brief, as the matter now stands, the rebates in favor of the Spanish Central American steamers and the consequent discriminating duties against our vessels in the Pacific ports of Central America are as follows:

Guatemala imposes a discriminating duty of one-tenth of 1 per cent. on importations by all regular lines of American vessels, and 3 per cent. on importations by other and transient vessels of the United States.

Costa Rica imposes, practically, a discriminating duty of 5 per cent. on all merchandise imported by vessels of the United States into her Pacific ports.

Honduras concedes a rebate of 2 per cent. in favor of the Central American steamers, thus discriminating to the same extent against vessels of the United States.

Salvador concedes a rebate of 3 per cent. to all regular lines of vessels, irrespective of contracts or nationality.

Nicaragua has withdrawn the conceded rebate of 2 per cent., thus placing vessels of the United States on the most favored footing in her Pacific ports.

I have, etc, HENRY C. HALL.

No. 81.

Mr. Hall to Mr. Bayard.

No. 753.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, December 12, 1887. (Received January 4, 1888.)

SIR: I have the honor to inclose herewith a copy of a letter, dated the 23d ultimo, from the consul of the United States at San Juan del

Norte, Nicaragua, reporting the seizure, on the 20th of the same month, near the borders of the Mosquito Reservation, by Nicaraguan officials, of two small vessels, carrying the flag of the United States, called the schooner *Merida* and a steam-tug called the *W. S. Moore.*

The *Merida* appears in the ninth annual report (1876–'77) of the merchant vessels of the United States under the name of the *John H. Patteson,* of Red Bank, N. J., 43.60 tons. The consul states that the vessel came to Nicaragua in 1876; was sold in 1882 to Nicaraguans and remained under that flag until August, 1886, when it was sold to the present owner, a citizen of the United States, and has since displayed the American flag in virtue of the general regulations of the Treasury, as set forth in Article XX of the Consular Manual.

As the facts reported in the consul's letter have appeared in some of the newspapers of the United States, I have no doubt the case has been brought already to the Department's notice. I shall communicate them to the Nicaraguan Government and ask for an investigation. I have no doubt, however, that the Nicaraguan commissioner, now in the reservation, will order these vessels to be restored to the owners, if the facts should prove to be as they have been represented to the consul.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 753.]

Mr. Brown to Mr. Hall.

[Extract.]

UNITED STATES CONSULATE,
San Juan del Norte, Nicaragua, November 23, 1887.

SIR: I transmit a copy of a letter from the consular agency at Bluefields, Mosquito Reserve, relating to alleged unlawful acts by Nicaraguans upon Americans.

What is recited in the inclosure is all the information I have at this date, but Mr. N. P. Allen and the agents of the *W. S. Moore* have been requested to present themselves at the Bluefields agency, that the necessary declarations and affidavits substantiating the charges in Captain Allen's letter may be taken.

The alleged acts took place near the mouth of the Rama branch of the Bluefields, where it empties into the former, and about the line running north and south that is supposed to be the line of disputed boundary between Nicaragua and the municipal authority of the Mosquito Reserve.

Opposite each other at that point, on the Rama, the Government of Nicaragua and that of the Mosquitia authorities have established officials, that of Nicaragua being a police governor, a collector of revenue, a sergeant, a corporal, and thirty soldiers as the customs guard. The Mosquitia have located magistrates and a small force of police.

The schooner came to this part of the country in 1876 as a regularly registered American vessel, under the name of the *J. H. Patterson.* In 1882, by a regular sale, she was transferred to citizens of Nicaragua. Being at this port, her name was changed to that of *Merida,* and from that date until August 20, 1886, she displayed the flag of Nicaragua. On the 6th of August 1886, she was sold and transferred by her alien owner to Mr. Nathaniel P. Allen, a native of Portland, Me. On the 20th of August, above cited, the due certificate (Form No. 35), pursuant to the Treasury regulations in cases of purchase by citizens of the United States of American or foreign built vessels in foreign ports, was issued by the agency at Bluefields, and since that date she has displayed the flag of the United States, and she has for more than one year been used by Captain Allen, her owner, as a store-house, being anchored in the Rama River near its mouth, Captain Allen, as I believe, having permission or license to do that from the Mosquito Government, and it was at that point she was seized by the Nicaraguan authorities, located at the mouth of the Rama, both Nicaragua and the municipal authority for the reserve claiming to have rightful jurisdiction of that place.

The *W. S. Moore* is a small steam-launch said to be owned by Henry Brothers, of Baltimore, and by them sent to be used as a tender to the larger sea-going fruit ves-

sels which they have running between Baltimore and Philadelphia and the banana plantations of Bluefields River and its branches, Rama and Siguia.

On what ground the seizure was made as to either of these vessels I am not advised; it may be an alleged violation of revenue regulations the authorities at the Rama are seeking to enforce, though I have not been able to get a sight of such regulations, but it is more than probable that it is one of the steps adopted by Nicaragua to recover her great interests in that region.

The long-delayed commissioner of Nicaragua in the Mosquitia passed through there to his post of duty on the 14th instant. I hear that Mr. Climie, after completing the work of his mission to Washington, is to go to the Mosquitia to survey and mark the boundary.

I am, etc.,

WILLIAM A. BROWN,
Consul.

[Inclosure 2 in No. 753.]

Mr. N. P. Allen to Mr. Augustine.

RAMA BANK *November* 20, 1887.

DEAR SIR: This morning an armed force wearing the uniform of the Nicaraguan Government boarded my vessel, the *Merida*, and took forcible possession. They also boarded the *W. S. Moore*. I have abandoned everything to them. Both vessels had the American flag flying at the time, and it is all an outrage.

I showed them my license from the Mosquito Government. I asked for their authority; they showed me their rifles. I claim American protection and damages for the interruption of my business.

Yours, respectfully,

N. P. ALLEN,
An American citizen and owner of schooner Merida.

UNITED STATES CONSULAR AGENCY,
Bluefields, Mosquito Reserve, November 21, 1887.

I hereby certify that the above is a true copy of the original letter of Capt. N. P. Allen, on file in this office.

JOHN S. AUGUSTINE,
United States Consular Agent.

No. 82.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 754.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, December 15, 1887. (Received January 4, 1888.)

SIR: I had the honor to transmit to you on the 9th instant a telegram to the effect that the President of Costa Rica had notified the Nicaraguan Executive that the engineers now on the way to Nicaragua for the purpose of surveying and locating the projected canal route would not be permitted to operate on Costa Rican territory without express permission from its Government.

I now inclose a translation of a telegram received on the 8th instant from President Carazo, of Nicaragua, containing a transcript of another telegram, which he had just received from the President of Costa Rica, informing him with reference to the corps of engineers which recently left New York for Nicaragua with the object of definitely locating the canal, that the Costa Rican Government would interdict all studies or

surveys within its territory until its express authorization shall have been obtained. At the same time the President of Costa Rica declares that his Government is enthusiastic for a work of such importance, and that it has manifested a disposition to grant the necessary concessions on equitable terms. Unfortunately, the Nicaraguan Government is not of the same opinion.

This opposition of the Costa Rican Government to the Nicaraguan Canal is of recent origin. It found no fault with the former concession, known as the Menocal concession of 1880, nor was it a party to the contract. In a communication addressed to Mr. Frelinghuysen, which I transmitted to the Department with my dispatch No. 203, of the 29th February, 1884, the then minister for foreign affairs of Costa Rica, in behalf of his Government, appealed to that of the United States in favor of the Nicaraguan Canal, on the ground of American fraternity and interests.

I have, etc.,

HENRY C. HALL.

[Inclosure in No. 754.—Translation.]

President Carazo to Mr. Hall.

MANAGUA, NICARAGUA,
December 7, 1887. (Received December 8, at 8 p. m.)

I have just received the following telegram from the President of Costa Rica:

"President CARAZO, *Managua:*

"I have received the telegram in which you are pleased to inform me that a corps of engineers has sailed from New York with the object of definitely locating the canal. My Government is enthusiastic for a work of such importance, and has manifested itself disposed to grant the necessary concessions on equitable terms, but up to the present no arrangement has been made. It will therefore be under the necessity of interdicting all surveys in its territory until its express authorization shall have been obtained.

"BERNARDO SOTO."

Which I communicate to you for your information.

E. CARAZO.

No. 83.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 755.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, December 21, 1887. (Received January 12, 1888.)

SIR: With reference to and in continuation of my dispatch No. 754, of the 15th, I had the honor to transmit to you, on the 19th instant, a telegram announcing information received by me from the President of Nicaragua, to the effect that Costa Rica has withdrawn objections to the possible operations of the ship-canal surveying party on Costa Rican territory.

The translated text of President Carazo's telegram is as follows:

Minister HALL, *Guatemala:*

The President of Costa Rica has addressed me the following telegram:

I have the pleasure to inform you that, at the solicitation of the canal company, my Government has granted permission, under this date, for making the necessary surveys in Costa Rican territory for locating the line of the canal.

Señor Esquivel, minister for foreign affairs of Costa Rica, under date of the 2d ultimo, addressed a note to Señor Zavala, minister for foreign affairs of Nicaragua, in which he confirms and reiterates a former protest against the present interoceanic canal concession, granted by Nicaragua to Messrs. Menocal and associates, as an infraction of article 8, of the treaty of 1858, for the reason that the consultative voice of Costa Rica had not been heard.

In regard to the treaty of 1858, Señor Esquivel claims that until it shall have been declared by the arbitrator to be null and void, its observance is binding upon both countries, and that, even in such event, it will remain in force until the question of boundaries, which must result from the arbitrator's award, shall have been settled.

He arraigns the canal concession upon the ground that the rights of Costa Rica to navigate the San Juan River, the right in common with Nicaragua to the Bay of San Juan del Norte (rights which Nicaragua has not conceded nor has Costa Rica possessed), are attacked and impaired thereby. He also alleges that the completion of the canal will result in grievous injury to the territory of Costa Rica, to her commerce, and to her river routes of communication; that the San Juan will be rendered useless for Costa Rican navigation; that the courses of Costa Rican rivers will be changed, and that many other grave injuries will be done to that Republic.

In the face of these charges he declares that the Costa Rican Government has no desire to create obstacles to the construction of the canal; that it is an enterprise of world-wide importance and interest, and that for a long time it has been the great desideratum of all Central American patriots.

These charges are, beyond a doubt, unfounded, and I am not aware that they have ever been made before; especially the charge that the courses of Costa Rican rivers will be changed and their navigation injured. The only effect the elevation of the waters of the San Juan to the level of the lake, as has been proposed, could have would be to make some of the Costa Rican streams which empty into it navigable during the whole year, whereas now they are mere creeks, during the so-called dry season. That section of Costa Rican territory near to the lake and the San Juan River is now almost wholly unproductive and sparsely inhabited. The completion of the canal would no doubt render it as valuable as any portion of Nicaraguan territory through which the proposed canal will pass. So well convinced of this fact were the prominent citizens of Costa Rica, as I reported to the Department in my dispatch No. 306, of January 12, 1885, that immediately after the signing of the canal treaty of 1884 the then President Fernandez and the now President Soto, as well as many other notabilities of that Republic, hastened to secure large tracts of public lands near to its proposed route.

The Nicaraguan minister, Señor Zavala, in reply to Señor Esquivel, expresses surprise and concern at receiving this uncalled-for protest in regard to a question which, having been submitted to arbitration, is beyond their discussion, but is again brought up at the very moment when a corps of engineers, charged with making the final surveys of the route, is about to arrive in Nicaragua, and that were it not known that the Costa Rican cabinet is guided by enlightened counsels, it might well be supposed that the protest has no other object than the creation of obstacles to the consummation of a work of great interest, upon which the Central American States found all their hopes for the future, and that this conduct of Costa Rica is in complete opposition to that which it formerly observed whenever the same subject has been discussed.

He further reminds the Costa Rican minister that the canal concession recently granted to Señor Menocal and associates is essentially the same as the one granted to same parties in 1880, to which Costa Rica made not the slightest objection; on the contrary, it accepted the idea, suggested by Nicaragua, to join with the other Central American States in offering to the company a guaranty of 3 per cent. profits upon the capital to be invested in the enterprise; thus approving and assenting to the legality of all that Nicaragua had done in granting the concession. The Government of Nicaragua is therefore at a loss to understand what can possibly be the motives of the Government of Costa Rica for protesting against acts which have already received its approbation.

The rejection by the Nicaraguan Congress of the treaty of July last between those governments has evidently aroused a feeling of deep resentment on the part of the Costa Rican Government, which will make any mutual settlement next to impossible.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 755.—Translation.]

Señor Esquivel to Señor Zavala.

SAN JOSÉ (COSTA RICA), *November*, 2, 1887.

Mr. MINISTER: On the 14th of May of the current year the Costa Rican Government, through this department and the worthy medium of your excellency, communicated to that of Nicaragua that it did not consent to the infraction of article 8 of the treaty of 15th April, 1858, committed by the Government of that Republic in entering into a contract for the construction of an inter-oceanic canal without having heard the consultative voice of the Government of Costa Rica, which had protested against such contract, that the just rights of the Republic may in no wise be prejudiced.

In reply to that protest, your excellency in a note, dated the 23d of June was pleased to state that the Nicaraguan Government had no desire to reopen a discussion in which both countries had been so long engaged, which is submitted to arbitration, adding that it sustains the nullity of the treaty of 1858 and that the instructions your excellency had received were limited to a manifestation that the Government of Nicaragua did not consider itself bound to solicit the consultative voice of Costa Rica in regard to the disadvantages which the negotiations might possess for the two countries, using the words of article 8 of the said treaty, and that in the event of the treaty being declared valid, that will be one of the points which would be submitted to the decision of the arbitrator.

After the communication to which I allude, those days followed in which the hope was entertained that the differences between Costa Rica and Nicaragua would be arranged by a proposed conference of the two presidents. To-day that hope has vanished in consequence of the rejection of the treaty of Managua. My Government is not only in the position of confirming its former protest, but of amplifying it upon reasons based upon a study of the contract concluded between the Government of that Republic and Señor Aniceto G. Menocal for the opening of the interoceanic canal.

It has always been clear to my Government that the treaty of 1858 is synallagmatic. It became, in this Republic and in that a law, and as such was observed during long years. It can not be held to be null and void at the will of one only of the contracting parties. The question whether the treaty is valid or not is submitted to arbitration, and my Government tranquilly awaits the arbitrator's decision. Until that treaty, which is revested with extraordinary solemnities, shall have been declared null, its observance is binding upon the two Republics.

There is still more upon this point. Even in the case that the arbitration should declare the treaty of 1858 to be null, which my Government really does not expect, according to the convention concluded in Guatemala it must continue in force until it shall have been definitely settled by treaty or by new arbitration, what will then become a question of boundaries; an old and grave question which the treaty of 1858 cut short, and about which the opinions of our respective Governments are wide apart.

Under these circumstances your excellency's Government entered into a canalization contract without hearing the Government of Costa Rica, notwithstanding the stipulations of the treaty of 1858, and notwithstanding that the contract to which I allude profoundly injures the national interests of this Republic, which, according to the treaty, is riparian in a part of the right bank of the San Juan; it has perpetual rights of navigation on this river and common right with Nicaragua in the Bay of San Juan del Norte, and its boundaries on the Pacific side extend to the central point of the Bay of Salinas. Failing to obtain the positive right arising from the treaty of 1858, Costa Rica supported by her legitimate titles, would be restored to her former boundaries marked by the lake, the San Juan River, and the River La Flor.

These precedents being established, I pass to the contract between that Republic and Mr. Menocal. Several of its clauses, as well as the surveys made up to to-day, indicate that the San Juan River will serve as the bed of the projected canal; that the banks of the river can be occupied, the mouth of the river changed, and the courses of other rivers running into Costa Rica territory, and in which she has indisputable rights, changed. The right to navigate the San Juan, the riparian rights to the same, and the right in common with Nicaragua to the Bay of San Juan del Norte are attacked and impaired by the contract to which I allude, and its execution would result in grievous injury to the territory of this Republic, to its commerce, and to its river routes of communication.

It is true that it has been agreed that the excavations for the interoceanic canal are to be made in Nicaraguan territory, but it is none the less true that without violating that principle the waters of the San Juan can not be made use of, so that it will be rendered useless for the navigation to which Costa Rica has a right. Enormous modifications are to be made in the bays, and the present courses of Costa Rican rivers are to be changed and in this way grave injuries will be done to this Republic, and greater still should the canal company change the traced route in virtue of the freedom of action which the contract I refer to concedes them.

For all this the Government of Costa Rica is under the necessity of confirming and does confirm and extend her former protest, and will not consent at any time that the excavation of the canal shall prejudice the rights of this Republic, whether by taking a part of her territory or the waters in which she has the right of navigation, or by modifications of the bay in which she has a common right, or by deviating the rivers that run in Costa Rican territory.

My Government is far from wishing to create obstacles to the canal enterprise; no one can attribute such intentions to a progressive administration, animated by Central American spirit, but it is its strict duty to maintain unharmed the rights and prerogatives of the country whose destines are confided in it.

Aware of the immense utility of an interoceanic canal, an enterprise which may be considered of universal importance, and which has for a long time been considered the desideratum of Central American patriots, my Government has always been and is disposed to hear propositions respecting the part that pertains to it in a work in which nature and her laws give joint rights to this Republic.

Notwithstanding, however great may be the importance of the projected canal, and although the construction thereof can count upon its sympathy, my Government can not consent to the carrying out of the work to the sacrifice of this nation, and it considers that the hour has arrived to formulate the present protest which the Government of your excellency should receive in no other light than as the fulfilment of the obligation of mine ever to preserve harmless the rights of Costa Rica.

I improve, etc.,

ASCENSION ESQUIVEL.

[Inclosure 2 in No. 755.—Translation.]

Señor Zavala to Señor Esquivel.

MANAGUA, NICARAGUA, *December* 2, 1887.

Mr. MINISTER: With deep concern and not without surprise I have received the courteous note of your excellency, dated 2d November last, substantially confirming and amplifying your protest of the 14th of May of the present year against the canal concession to Mr. Aniceto Menocal, because the consultative voice of that Government had not been heard.

Indeed, Mr. Minister, that new and uncalled for protest upon a subject which is already beyond the discussion of our respective Governments, it having been submitted to arbitration, is again brought up at the very moment when a corps of engineers charged with making the final studies for locating the line of the interoceanic canal, is about to arrive at our shores; it could not otherwise than cause surprise and unfavora-

ble impression upon my Government, because if it were not known that the deliberations of the enlightened Costa Rican cabinet are guided by an elevated spirit, it might be supposed that it was intended to create obstacles to the execution of a great work of universal interest, upon which these countries base all their future hopes. Moreover, it is in complete opposition to the conduct formerly observed by that Government, whenever this enterprise, of such vital importance, has been discussed.

In the opinion of my Government the note of this Department of the 23d June, in reply to that of your excellency of the 14th of May last, sufficiently explains its ideas upon the question submitted to arbitration, and its purposes, whatever may be the nature of the award, should have completely tranquillized the Government of your excellency.

Unless the Government of Costa Rica wishes to withdraw from the cognizance of the arbitrator, the question pending in regard to the validity of the treaty of 15th April, 1858, any protest or allegation in regard to rights to be derived from that treaty would be out of place because based upon a document whose substance is under judicial consideration; nor is this new arrangement justified by the circumstance that the efforts of both Governments to arrange the difficulty directly have failed, inasmuch as the proposed treaty of 26th July last contains a provision therefor in the event of its not being projected; and, moreover, the contracting parties agreed therein to submit to the arbitrator's award.

The present reply, therefore, must be limited substantially to a repetition of the note of this department of the 23d of June last; but I deem it not out of place to make the following observations:

The canal concession lately granted to Mr. Menocal is essentially the same as the one granted to the same party in 1880. In the former as well as in the present concession the engagements of Nicaragua were limited exclusively to her own territory and waters. So true is this that your excellency's Government in a note dated the 24th June of the same year (1880) recognized that in the contract referred to the boundary line as determined by the second article of the treaty of 1858 had been respected; a declaration the more honorable for Nicaragua, and an irrefutable proof of the spirit of harmony and fraternity which animated her Government, inasmuch as for a long time previous to the date of that concession my Government had persisted in the nullity of the referred to treaty. Subsequently the Government granted an extension of time for carrying out that contract, and not only the Government of your excellency remained silent upon the points now referred to in its reiterated protest, but in 1884 it accepted the idea of offering a guaranty to the same association of 3 per centum upon the capital invested in the enterprise, thus approving and assenting to the legality of all that Nicaragua had done in granting those concessions.

With these antecedents my Government is unable to understand upon what motives that of your excellency has decided to protest against perfectly legal acts which have already received its approbation.

Nicaragua has sustained the insubsistence of the treaty of 1858, because it has never been perfected, and she is convinced that the arbitrator will declare it to be null, for the reason that it is a doctrine current with writers upon international law that a compact which is void does not cease to be void even when it may for a time have been observed. Notwithstanding that treaty is now submitted to an arbitrator's decision, Nicaragua would not now attempt to carry her pretensions of dominion to the Salto River, to which her primitive rights extend; neither is she disposed to consent that Costa Rica shall exercise rights dependent solely upon the validity of the treaty, much less when the treaty is interpreted in the sense maintained by the Government of your excellency.

In the opinion of my Government any discussion in regard to the rights of Nicaragua and Costa Rica in the case provided for by article 8 of the Arbitration Convention of Guatemala is premature, but I must at once say to your excellency that the article mentioned refers to a period subsequent to the arbitrator's declaration; it says nothing in regard to the rule that must be observed previous to that decision; it respects the established *status quo*, otherwise it would give temporary validity, although in appearance only, to a treaty which should have been declared insubsistent, while the interpretations which each party would give to its stipulations would bring us back to the same or a worse situation than the one we are trying to get out of.

I can not let pass without observation the opinion expressed in your excellency's note wherein you state "that the works of the canal would result in grievous injury to the territory of Costa Rica, to her commerce, and to her river routes of communication, and that the right to navigate the San Juan, the riparian rights to the same river, and the right in common with Nicaragua to the Bay of San Juan del Norte are attacked and impaired."

Those rights, if they should become effective through a declaration of the validity of the treaty of 1858, would never give Costa Rica the right to deprive Nicaragua of her free action as lord and owner of the territory and waters.

On the other hand the same contract establishes that in whatsoever way the work

of the canal may be carried out, the canal company is under the obligation to canalize the lower San Juan and to re-open the bay so that the right of navigation, which by the treaty would pertain to Costa Rica, far from being impaired, would be benefited by the construction of this work. From this stand-point the protest is still less explicable.

Having made these observations, which my Government has deemed indispensable in fulfillment of the high duties confided to it, and which the Government of your excellency with its enlightened judgment will appreciate in their full value, it remains for me to say to your excellency that they do not lessen in any manner the vehement desire of my Government to see our old differences cut short forever, and that the cordial harmony existing between the two Republics may remain inalterable.

With these purposes, I have the honor, etc.,

ADRIAN ZAVALA.

No. 84.

Mr. Hall to Mr. Bayard.

No. 756.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,

Guatemala, December 21, 1887. (Received January 12, 1888.)

SIR: With reference to my dispatch, No. 753, of the 12th instant, relating to the alleged seizure on the 20th ultimo of two small vessels carrying the American flag, called the schooner *Merida* and the steam-tug called the *W. S. Moore*, I now inclose a copy of a letter dated the 3d instant, from the consul of the United States at San Juan del Norte, reporting that he had learned that the *Merida* had been restored to the owner.

I have no doubt as to the truth of the statement, nor that the other vessel will be restored to the owner as soon as the facts shall be brought to the notice of the Nicaraguan commissioner, now in the reservation and found to be as represented to the consul.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 756.]

Mr. Brown to Mr. Hall.

CONSULATE OF THE UNITED STATES,
San Juan del Norte, Nicaragua, December 3, 1887.

SIR: Referring to the case of the American vessel *Wm. S. Moore*, mentioned in mine of November 23, as unlawfully boarded by the authorities of Nicaragua at the mouth of the river Rama in the reserve, I have to transmit a copy of an affidavit by Capt. Henry Nelson, master of that vessel, reciting the facts of such seizure. I hear that in the case of the *Merida* that the authorities at the Rama have sent to Captain Allen an apology and requested him to come and take possession of the *Merida*. Of this report I have nothing authentic, but think that such action will be quite probable, as soon as Commissioner Urtecho becomes informed of the circumstances, and to whom I had directed Mr. Augustine to address on that subject.

General Urtecho went on duty on the 18th ultimo at Bluefields.

I am, etc.,

WM. A. BROWN,
Consul.

[Inclosure 2 in No. 756.]

Affidavit of Henry Nelson, master of the steam-tug W. S. Moore.

BLUEFIELDS, M. R.,
Nicaragua:

This day before me, the undersigned authority, personally came and appeared Capt. Henry Nelson, who having been by me first duly sworn on his oath declares:

That heretofore, to wit, on or about the 20th day of November, A. D. 1887, he was in command of the American steam-tug *Wm. S. Moore*, an American bottom, registered in the city of Alexandria, Va., United States of America, and owned by Messrs. Henry Brothers, of the city of Baltimore, in the State of Maryland, United States of America.

Affiant states that he is an American citizen, and was commanding the said vessel on the date aforesaid as master thereof, sailing said vessel from Bluefields to the head of navigation on Bluefields or Escondido River, transporting freight and passengers from said Bluefields to the mouth of the Rama River and intermediate points on the said Bluefields or Escondido River. Affiant states that said vessel has been engaged as aforesaid in the said trade under permission from the Mosquito Government for and during the term of a year and upwards, and sailing the American flag during the said time.

Affiant states that on or about the said 20th day of November, A. D. 1887, he was in command of said vessel as aforesaid, and had just terminated his usual voyage from Bluefields to the aforesaid Rama mouth, having arrived at her mooring on Saturday night of the 19th instant, and was laying alongside of the schooner *Merida*. That on the afo esaid morning of the 20th of November, aforesaid, about the hour of 8.30 a. m., while peaceably lying at anchor as aforesaid, not having discharged the freight and passengers, and with the American colors flying at the mast head, and without any previous notice, an armed body of soldiers, or persons who were dressed in Nicaraguan uniform, came on board the said vessel and forcibly took possession of the same, claiming to act under Nicaraguan authority, and demanded the ship's papers, which I refused to surrender, notifying them that I was licensed to engage in said trade by the local Government of Mosquito.

Affiant further states that after refusing to surrender the ship's papers as aforesaid the said armed body of men, acting under the immediate command of an officer of Nicaragua, proceeded to forcibly enter the cabin and hold of said vessel and search the same, and did not release said vessel until after the lapse of an hour or more.

Affiant further states that the said vessel has been peaceably engaged as aforesaid in said trade during the past year, as also other vessels plying between Bluefields and the said Rama mouth, and that he verily believes that the said action of the said Nicaraguan authorities has materially damaged the business of said vessel, and that the said action was wholly unauthorized, and that the same was an unjust and unwarranted discrimination against Americans and American enterprises, and an insult to the flag of his country.

In witness whereof affiant hereunto signs his name this November 22, A. D. 1887.

HENRY NELSON.

Subscribed and sworn to before me this November 22, A. D. 1887.

[SEAL.] J. A. HODGSON,
Magistrate.

UNITED STATES CONSULAR AGENCY,
Bluefields, M., R. Nicaragua:

I, the undersigned, hereby certify that J. A. Hodgson, whose signature appears attached to the foregoing jurat, is an acting magistrate in and for the city of Bluefields, duly appointed and qualified, and that his signature is his true and genuine signature and as such entitled in full faith and credit; that the said Henry Nelson is an American citizen, and that the steam-tug *Wm. S. Moore* is as alleged an American vessel.

Witness my hand and official seal at Bluefields, M. R., Nicaragua, this, November 22, A. D. 1887.

[L. S.] JOHN I. AUGUSTINE,
U. S. Consular Agent.

No. 85.

Mr. Hall to Mr. Bayard.

No. 763.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, January 6, 1888. (Received January 25.)

SIR: With reference to my dispatch No. 748, of the 6th ultimo, and to other correspondence therein mentioned relating to the claim of the Government of Italy against that of Salvador, I have to inform the Department that Señor Magliano, chargé d'affaires of Italy in Central

America, has received instructions to proceed to Salvador and endeavor to effect an equitable and friendly settlement. He has also solicited my good offices with the Government of Salvador, which it would be quite impossible to render from here.

I therefore telegraphed you on the 3d instant, conveying the Italian minister's request and asking instructions, and received last evening your reply, dated the 5th instant, instructing me that, if both parties joined in requesting my impartial good offices, I might visit Salvador for that purpose.

Señor Magliano will leave here for that Republic, overland, on the 9th, and will arrive at the capital about the 18th instant. I have informed the Salvadorian Government of his proposed departure and of the object of his visit, and have placed my good offices at its disposal, should the same be required. I shall probably leave here for La Libertad, Salvador, either on the 17th or 22d instant by steamer.

I have, etc.,

HENRY C. HALL.

No. 86.

Mr. Bayard to Mr. Hall.

No. 533.] DEPARTMENT OF STATE,
Washington, January 7, 1888.

SIR: I have received your No. 759 of the 8th ultimo, relative to a contract between the Guatemalan Government and Mr. John T. Anderson, an American citizen, for the construction of the Northern Railway of Guatemala.

In this connection I have examined article IX, to which you invite attention and which relates to the right of the contractor to import laborers other than Chinese, and the obligation of the Government to employ all possible means in its power to enforce the contracts made abroad with such laborers; but the question is too general to admit of instructions in advance of a case being presented.

I am, etc.,

T. F. BAYARD.

No. 87.

Mr. Hall to Mr. Bayard.

No. 766.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, January 11, 1888. (Received February 2.)

SIR: During the year 1881 the Guatemalan Government granted to three American citizens, Messrs. Lyman, Bunting, and Fenner, a concession for the construction and operation of a railway from the port of Champerico, on the Pacific, to Retalhuleu, an interior town about 30 miles distant

The concession was subsequently transferred to an association in San Francisco, Cal., and a company was organized for carrying it out, under the laws of that State and the name of the "Champerico and Northern Transportation Company of Guatemala."

This company carried out their concession satisfactorily; the road was completed and was formally accepted by the Government in 1884.

It is stipulated in article 2 of the concession that the grantees shall have the right to operate a railroad between the two places mentioned during the term of twenty-five years, and that during that period no other person or association shall have the right to construct another railway within a less distance than 15 leagues on either side of the line.

Notwithstanding the explicit terms of the article above mentioned, the Guatemalan Government has recently granted another concession to parties who style themselves Messrs. J. L. Bueron & Co., to construct a railway from the Port of Ocos to Quesaltenango. The distance from Champerico to Ocos does not exceed 8 leagues, or about half of the distance stipulated in the Champerico Company's contract. The concession has been accorded in the face of a respectful protest of the managing director and of irrefutable proof that it is a flagrant violation of the Champerico Company's rights.

I have had no official correspondence with the Government in regard to this matter other than to advise the minister for foreign affairs that a copy of the protest referred to, herewith inclosed, had been filed in this legation; indeed, there was no time to give attention to it, as the contract was rushed through the department of public works and the assembly with most unseemly haste. However, upon the receipt of the notification that such a protest addressed to the minister for public works had been filed in this legation, the minister for foreign affairs referred the question to Professor Rockstroh, a member of the Guatemalan and Mexican boundary commission.

I inclose a copy and translation of his report, in which it is demonstrated, beyond the shadow of a doubt, that the Ocos concession is an infringement on the rights already conceded to the Champerico Company.

This Ocos contract was signed by the minister for public works on November 7 last past, and was confirmed by the assembly on the 14th of the same month. The Government appears to have held the matter under advisement for nearly a month. It was not until the 15th ultimo that the President signed it. I have not deemed it necessary to forward a copy and translation with this dispatch; the other inclosures sufficiently show its object, and, if carried out, the effect it will undoubtedly have on the Champerico Company.

In addition to the before-mentioned inclosures I have the honor to transmit a translation of the concession and contract of the Champerico Company with the Government.

I have, etc.,

HENRY C. HALL.

[Inclosure No. 1 in No. 766.]

Mr. Robinson to Mr. Hall.

GUATEMALA, *November* 15, 1887.

SIR: I have the honor to hand to you herewith a correct copy of a communication and protest that I have this day personally delivered at the office of the minister of fomento of Guatemala, addressed to him, and to beg of you that you will place the said copy on file in the legation of the United States for such future reference as may be necessary.

I have, etc.,

SANFORD ROBINSON,
Managing Director, etc.

[Translation.]

GUATEMALA, *November* 15, 1887.

To the Minister of Public Works:

When the national constituent assembly was discussing the project of a railway from the port of Ocos I presented to that body a respectful protest, showing that the enterprise could not be carried out without prejudice to the interests of the Champerico Railway, and without violating article 2 of the contract made with this company, which definitely prohibits the construction of another line at a distance of less than 15 leagues.

The national representatives, setting aside the just considerations which I submitted to their judgment, paying no attention to my demands, approved the project referred to by a small majority.

Under such circumstances I should remain silent, were it not that such silence might be supposed to signify an acquiescence, a tacit submission to the law passed by the assembly, and if, as the managing director of the company, I did not consider myself bound to exhaust every effort in defending the important interests confided to my care.

I appeal, therefore, to the Government of the Republic in demand of protection for the interests of the Champerico Railway, so seriously menaced by the assembly's act in approving the project of a railway from the port of Ocos. I appeal to the Government in demand of justice; I ask nothing else when I ask that the stipulations contained in article 2 of our contract shall be respected; that the anterior rights acquired by the same company shall be respected. And that protection which I demand, Mr. Minister, is not alone in benefit of the Champerico Railway; it is in benefit of the whole country; in benefit of the credit of the nation.

If to-day the Government consents to this new project by approving the law of the assembly, to-morrow it will be said abroad, and with good reason, that in Guatemala neither compacts nor stipulations nor agreements formally contracted are respected; that in Guatemala the irrevocably-acquired rights for great undertakings are continually being trodden under foot; and in this way capital, which might otherwise be invested in public works and new industries, so much needed in Guatemala, is driven away.

In view of the foregoing, as director of the Champerico Railway, and with the respect due to the high functionary whom I have the honor to address, I ask you, Mr. Minister, to present this memorial to the President of the Republic, with the object that the supreme Government may be pleased to refuse its compliance with the assembly's law approving the contract for the railway from the port of Ocos, and otherwise to acknowledge as presented this formal protest which I make for the damages and injuries, caused by this violation of article 2 above mentioned, to the Champerico Railway Company.

SANFORD ROBINSON,
Managing Director, etc.

[Inclosure 2 in No. 766.—Translation.]

REPORT UPON ARTICLE II OF THE CONTRACT OF THE CHAMPERICO RAILWAY COMPANY WITH THE GOVERNMENT OF GUATEMALA.

Mr. Rockstroh to Señor Montufar.

GUATEMALA, *November* 19, 1887.

Mr. MINISTER: I have the honor to present to the minister in the following a report upon article 2 of the contract between the Government of the Republic and Messrs. Lyman, Fenner, and Bunting, for the construction of a railway between Retalhuleu and Champerico, signed the 12th of March, 1881.

This article 2 relates to the exclusive privilege conceded to the association for the term of twenty-five years, first, to operate a railway between Champerico and Retalhuleu, and second, the construction of other railroads within a certain zone on both sides of the line.

The first part of the said article is so clear that there can be no doubt in regard to it. It says:

"The grantees shall have the exclusive right during the term of twenty-five years, commencing from its opening to public service, to operate a railway between the places mentioned (Champerico and Retalhuleu)."

The second part of the article mentioned says:

"No other railway shall be constructed by any other association or person during the same term at a less distance than 15 leagues on either side of the line."

In regard to this paragraph the question has arisen whether it is to be understood, first, whether at a distance of 15 leagues on both sides of the line no other association or person shall construct any railway to unite Champerico and Retalhuleu, or second, whether at a distance of 15 leagues on both sides of the line no other corporation or person shall construct any railway, whichsoever may be its starting point and termini.

In the first hypothesis the paragraph would be altogether superfluous, and one would be at a loss to understand why it was inserted in the contract. The association having the exclusive privilege of operating a railway between Champerico and Retalhuleu, any other railway from one of these points to the other would be excluded, although it might have a great deviation from a straight line between the two places.

Moreover, the construction of a railway from Champerico, deviating 10 or more leagues to the east or west to terminate afterwards in Retalhuleu, would be an absurdity. This contingency is certainly not to be taken into consideration.

The Champerico-Retalhuleu Railway Association evidently wished, by this clause, to prevent the construction of a railway which would come into competition with their line, especially in the department of San Marcos, depriving it of a great part of its principal traffic (transportation of coffee) now monopolized by this company in all the zone, comprising Costa Grande, Costa Cuca, and Costa de San Marcos.

I think that the second explanation only can be given to the paragraph referred to, according to which no railway can be constructed within a distance of 15 leagues from both sides of the line. By this line is understood a straight line between Champerico and Retalhuleu, so that this association would have the exclusive privilege for twenty-five years of constructing railroads in a zone formed by two right-angled parallelograms having for a common base the straight line between Champerico and Retalhuleu, and each one being 15 leagues in length.

The territory which a railway between Retalhuleu and Quezaltenango would cross would be excluded from this zone, while the western parallelogram embraces all the coast as far as the river Suchiate, which there serves as the boundary between Guatemala and Mexico.

The distance from Champerico to the mouth of the Suchiate River is equal to 31 minutes of a degree upon the parallel of 14 degrees north.

A degree on the fourteenth parallel measures 108,021.4 meters; consequently a straight line from Champerico to the mouth of the Suchiate River measures (31 minutes) 55,809.3 meters, or 11.162 leagues of 5 kilometers; 13.952 leagues of 4 kilometers; 13.367 leagues of 5,000 varas (of 835 millimeters.)

With assurances of the most distinguished consideration, etc.,

E. ROCKSTROH.

[Inclosure 3 in No. 766.—Translation.]

The Champerico Railway concession.

Delfino Sanchez, secretary of state for public improvements of the Government of the Republic, with authorization and instruction of the general president, for one part, and for the other J. H. Lyman, D. P. Fenner, and J. B. Bunting, have celebrated the following contract:

ARTICLE 1.

The supreme Government, in the name of the Republic of Guatemala, concedes to Lyman, Fenner, and Bunting, or to the persons that may legally represent them, authority to construct and operate during ninety-nine years a railroad operated by steam or electricity from the port of Champerico to Retalhuleu via Caballo Blanco.

On the completion of the ninety-nine years, which shall count from the date that the line is opened to public service, it shall, with all its fixed and rolling material necessary for its operation, stations, warehouses, etc., pass to be national property.

ARTICLE 2.

The grantees shall have the exclusive right during the term of twenty-five years that shall run from the opening of the road to public service to operate a railroad between the points indicated; no other person or enterprise during the said term having the power to construct another at a less distance than 15 leagues on either side of the line.

ARTICLE 3.

The Government will aid the enterprise with the subvention of $700,000, that it will deliver to them in debentures, amortizable with 20 per cent. of all the maritime duties that goods imported or exported through Champerico may pay.

The debentures will be given to the grantees when they shall have graded the road to the Encrucijada, but their amortization will not commence until the rails have been laid to Caballo Blanco.

ARTICLE 4.

The Government will give to the enterprise the ownership of 1,000 "caballerias" of national lands, in alternate sections of 50 "caballerias" each one, in the places where it may be possible, in such manner that one of said sections shall remain to the Government and the other to the grantees.

On the completion of the work to Caballo Blanco the designation of the lands will be made by the two contracting parties.

When the lands that are selected may surround a town, the space that may be necessary for cemeteries, pastures, looms, parks, etc., shall be left unoccupied.

The expense of measurement, setting land-marks, plans, etc., for all the lands, will be at the cost half each of the Government and the enterprise.

The grantees will be considered as denouncers in fact of all the mines that may be on the lands that may be delivered to them; notwithstanding which, for their acquisition and exploitation, they should be regulated in the manner prescribed by the laws of the Republic.

ARTICLE 5.

The titles that, in conformity with the legislation of the country, may be extended over the territorial property conceded to the enterprise, shall be transferable, divisible, etc., in the same manner as private property.

ARTICLE 6.

For the whole length of the line the Government will cede gratuitously to the enterprise a strip of land of 100 English feet in width, giving it besides the space that may be necessary for turnouts.

Besides, it will cede to it in each one of the towns of Champerico, Caballo Blanco, and Retalhuleu, four "manzanas" of land, for shops, offices, stations, warehouses, etc., and besides two other manzanas in each one of the points where they may wish to establish a station.

ARTICLE 7.

If there should be a necessity for occupying any part of the cart road, the grantees can make use of it, the part not occupied always remaining free for the traffic.

ARTICLE 8.

Materials of every species that may be found in national lands, and that can be utilized for the construction of the line, may be taken by the enterprise without any compensation.

In the matter of lands of private property that may be encountered, the enterprise shall enjoy all the rights conceded to the Government for works of public utility.

ARTICLE 9.

All the articles, utilities, and materials that the enterprise may import through Champerico, and that may be indispensable for the construction, maintenance, operation, and improvement of the line, shall be exempt from importation duties during the before-mentioned term of twenty-five years.

All that may be necessary for the creation and maintenance of shops, offices, stations, etc., will enjoy an equal exemption and for the same term, as well as the food and clothing that may be imported while the line is being constructed, calculating the first at 25 cents per day per person, and equally the first furniture that is introduced for the offices, shops, and stations.

ARTICLE 10.

The letters of exchange and the metal, coined or in bars, that the enterprise may draw or import from the exterior for the business of the said enterprise shall pay no stamp duty nor any other.

ARTICLE 11.

During the term of twenty-five years stipulated, the property fixed and movable, bonds and stock of the enterprise shall be free from all fiscal or municipal impost and

all forced loans as well in time of peace as in time of war, and its agents and employés that may be foreigners will remain excepted also while they are in its service from direct contributions, forced loans, and military service, and will enjoy all the guaranties and rights consecrated and stipulated for the rights of peoples and in international agreements.

ARTICLE 12.

The officials of the enterprise will be invested by the Government with public authority to the end that they can preserve order and police on the road, having the right to demand the aid of the armed force each time that it may be necessary for the defense and guard of the railroad and its dependencies.

ARTICLE 13.

During the construction, the enterprise will have the gratuitous use of the Government telegraph, and during the twenty-five years of the concession, of the national mails, it always being understood that the correspondence so transmitted shall refer exclusively to the business of the said enterprise; but it shall construct a telegraph line especially for the road, on the posts of which the Government can fix wires for the public service.

ARTICLE 14.

The concessions, rights, and privileges that by the present contract are executed to Lyman, Fenner, and Bunting, shall be considered as extended to their legal representatives, the same as to other persons, company or companies, to whom in whole or in part they may assign them; but they can not cede them nor hypothecate the line to a foreign Government nor admit it as a partner.

The railroad, as well as the lands to which the present contract refers, shall be considered as the absolute property of the grantees, of their legal associates, representatives and successors, except as specified in article 1; and the financial organization of the enterprise as well as the emission of mortgage bonds and of shares, shall remain entirely at the pleasure of the grantees.

ARTICLE 15.

The grantees shall have the right to form an anonymous company in the Republic or outside of it in order to obtain the necessary resources to complete the work.

The mortgage bonds that the enterprise emits shall be considered as recorded in the register of property, without other requisite than the presentation in said office of a copy of the act of hypothecation, certified by notary public and authenticated by the respective minister or consul.

ARTICLE 16.

In case that the grantees propose to dispose of the railroad, the Government shall have the right of preference in acquiring it under equal conditions.

ARTICLE 17.

This company will not be responsible for damages that, by accident or "*force majeure*," the persons and effects that they convey may suffer, whether it may be in its trains, or in its stations, or dependencies.

Only in the event of such damages being caused by the fault or negligence, duly proven, of the employés of the enterprise, will there be any responsibility.

ARTICLE 18.

The company will fix its residence where it considers it convenient; but shall have a representative in Guatemala, with all the powers necessary to treat with the Government in the resolution of questions that may arise.

ARTICLE 19.

The tariff shall not exceed the following rates on the whole extent of the line: Freight on coffee and other articles of exportation, $8 per ton of 2,000 pounds, or 40 cubic feet; articles of importation, $10 per ton of equal weight or dimensions; danger-

ous or inflammable freight, pieces that exceed 40 cubic feet in volume or 2,000 pounds in weight, precious metals, jewelry, and animals will remain subject to special agreements between the enterprise and the shippers.

Passengers shall pay $4 in the first and $2 in the second class.

ARTICLE 20.

The enterprise can not exact any compensation for the transportation of e n a tional mails and of its conductors, it being understood that they make use of the ordinary trains.

Each time that the Government needs a special train for this purpose the enterprise will be obliged to furnish it as soon as may be possible, without collecting other expenses than that they may have in fuel and conductors.

Troops, chiefs, and officials, their equipments, material of war, and employés in commission, will pay only half of the tariff rates.

ARTICLE 21.

The railroad shall possess the material necessary to assure the immediate and sure transportation of all the passengers and merchandise that may be presented in any direction; this as well as the fixed material shall be of the best quality.

ARTICLE 22.

The road shall have at the least a distance of 1 meter between the rails, which must be of steel; the bridges shall be all of iron; the maximum grade shall not exceed 4 per cent.; and the constructions shall be such as are required for a railroad of the first class.

ARTICLE 23.

The enterprise is obliged to begin the works within twelve months and to complete them within two years and a half, which times shall count from the date in which the Government gives its approbation to this contract. In the contrary case it shall be considered as concluded in fact.

ARTICLE 24.

As a guaranty of compliance with the present stipulation, the grantees oblige themselves to deposit in the office of the secretary of fomento the sum of $10,000 in current money within the term of one year, that shall run from the date on which this agreement is approved. If the contract should become void by the fault of the grantees, they shall lose this deposit in favor of the Government, but it will be returned to them when they give proof of having imported into the Republic materials for the railroad whose value reaches $50,000.

ARTICLE 25.

If between the Government and the enterprise there should arise any question of whatever nature, it shall be submitted to the decision of two arbitrators, named one by each party, and of a third in case of discord, designated by both, whose decision shall be considered as final.

The arbitrators shall be designated within the term of one month, that shall count from the day on which either one of the parties notifies the other that a question has arisen that should be decided in that manner; and if either of the parties refuses to name within this term the corresponding arbitrator, he will be considered as having consented to the opinion or proposition of the other.

TRANSITORY ARTICLE.

Before the present contract receives the approbation of the Government, it must be submitted to the "Central Railroad Company of Guatemala," that it may manifest whether it does or does not make use of the right conceded to it by Article 5 of the agreement signed April 7, 1871.

In faith of which, and for the constancy of both interested parties, two of one tenor are signed in the office of the secretary of fomento of the Republic of Guatemala, on on the 12th of March, 1881.

DELFINO SANCHEZ.
D. P. FENNER.
J. H. LYMAN.
J. B. BUNTING.

NATIONAL PALACE, GUATEMALA, *June* 20, 1881.

Brought to view the contract signed on March 12 last past, between Messrs. J. H. Lyman, D. P. Fenner, and J. B. Bunting, for one part, and for the other the secretary of state and of the office of fomento, duly authorized to celebrate it, and considering that such agreement, relative to the construction and operation of a railroad between Retalhuleu and the port of Champerico, via Caballo Blanco, is found in conformance with the instructions that were given with that object to that functionary, and that the "Central Railroad Company of Guatemala" having allowed to transpire the ninety days conceded to it in which to manifest if, with respect to this contract, it would make use of the right of preference belonging to it, has tacitly renounced the said right relative to the construction of the said road; the general president, desiring to facilitate the realization of all enterprises that contribute to the prosperity and aggrandizement of the country, decrees to concede his approbation to the contract of which mention has been made, it being an indispensable requisite for the validity of the present decree that the grantees accept the conditions that follow:

(1) The enterprise will be always national, even when all or any of its members may be foreigners, and it will be subject exclusively to the jurisdiction of the courts of the Republic in all transactions whose cause and action take place within its territory.

(2) The said enterprise and all the foreigners and successors of those who may take part in its business, whether as stockholders, as employés, or in whatever other character, will be considered as Guatemalans in regard to all it can refer to.

(3) They can never maintain, in respect to the titles and transactions relating to the enterprise, the rights of foreigners under any pretext; and

(4) They will only have the rights and means of making them valid that the laws of the Republic concede to Guatemalans, and in consequence foreign diplomatic agents can not intervene.

Let it be communicated.

Rubricated by the general president.

SANCHEZ.

Modifications to the contract for the construction of a railroad between Retalhuleu and Champerico.

MAY 30, 1882.

Having noted the desirability of making clear, completing, and modifying some articles of the contract made between Messrs. J. H. Lyman, D. P. Fenner, and J. B. Bunting, dated March 12 of last year, for the construction of a railroad between the town of Retalhuleu and the port of Champerico, the secretary of state and of the office of fomento, with the authority and instructions of the president of the Republic, for one part, and J. H. Lyman, as representative of the grantees, for the other, have agreed on the following points that will be considered as additional to the aforementioned contract:

1. The exclusive right to which Article 2 of the concession refers shall be considered as embracing the prohibition of other analogous enterprises crossing the road, only carts being able to do this in those points in which it may be indispensable for the service of the public.

In those places in which the transit of carts may be constant the company shall construct its grades and bridges in such manner that the traffic can be performed with facility.

2. Article 4 is modified so as to establish that the designation of the lands to which it refers can commence to be made a year after the work shall be completed to Caballo Blanco; and that the lots can embrace an area less than 50 caballerias when the Government and the enterprise shall in common accord so decide.

3. The "manzanas" of land that, according to article 6, the Government will cede to the company for stations, shops, etc., shall be designated as soon as the plan shall be finished, to the end that there may be no delays in the construction of the offices.

4. Article 22, which provides that the line shall not have less than a meter between the rails, is reformed so that the breadth shall not be less than 3 feet English.

5. Although the Government does not impose any limitation on its faculty of altering the maritime duties that are paid in the custom-house of Champerico, taking into consideration that the products of the said custom-house have been reduced on account of the duties heretofore levied on articles of export, having been reduced or abolished in place of the 20 per cent. established by article 3 of the concession, 25 per cent. of all the maritime duties produced by products that may be imported or exported through Champerico is assigned for amortizement of the $700,000 in debentures with which the Government has offered to aid the enterprise.

6. Stipulating that the enterprise is not strictly obliged to cause the line to pass through the "Encruziada," although it has to pass through Caballo Blanco, the Government will deliver the debentures as soon as the first 10 miles may have been graded.

7. If it becomes convenient to the enterprise to construct branches that may depart from the principal line for other points, the Government concedes to the company the faculty of making such works.

In such cases all the articles, utilities and materials that the enterprise imports through Champerico, and that may be indispensable for the construction and operation of the roads, shall be exempt from duties of importation during the term of the original concession.

In faith of which, and for due constancy, two of one tenor are signed in the office of the secretary of fomento of Guatemala the 30th of May, 1882.

MANUEL HERRERA.
J. H. LYMAN.

The chief official of the office of the secretary of fomento certifies:

That on this date the general president was pleased to issue the following decree:

"The anterior contract having been brought to view and finding all its stipulations arranged according to the instructions that were communicated to the secretary of state and of the office of fomento for its celebration, the general president decrees: To approve the seven articles of which it is composed.

"Let it be communicated.

"Rubricated by the general president."

HERRERA.

PALACE OF THE EXECTIVE POWER,
Guatemala, May 30, 1882.

D. ESTRADA.

No. 88.

Mr. Bayard to Mr. Hall.

No. 538.] DEPARTMENT OF STATE,
Washington, January 23, 1888.

SIR: I inclose herewith, for your information in respect of previous correspondence, a copy of a letter from the secretary of the Pacific Steam-ship Company, dated the 6th instant, concerning the continued imposition by Costa Rica of a discriminating duty of 5 per cent. against American vessels in favor of those of the Spanish Central American Line.

I have laid a copy of this correspondence before the Secretary of the Treasury, as desired.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 538.]

Mr. Lane to Mr. Bayard.

NEW YORK, *January* 6, 1888.

DEAR SIR: Differential duties granted the Spanish Central American line of steamers by the Republic of Costa Rica.

Referring to previous correspondence on this subject, and especially to our letter of September 19 and your letter of November 2, 1887, I now have the honor to submit herewith the following copies of correspondence, from which you will notice that the Government of Costa Rica persists in maintaining its unjust position of discrimina-

tion against American vessels to the extent of 5 per cent. differential duty in favor of shipments by the Marquis de Campo steamers, viz:

Letter from Mr. J. H. Leverich to this company, dated San José, November 15.

Letter from George H. Rice, dated San Francisco, December 15, 1887, inclosing three letters from shippers.

Letter from J. H. Leverich, dated San José, December 16, 1887, inclosing copy of letter from that gentleman to Mr. Hall, United States minister to Central America.

We have therefore to beg that the honorable Secretary of the Treasury may be advised of the situation, and that immediate steps may be taken having for their object the application of the provisions of section 2502 of the Revised Statutes of the United States by directing the collector at San Francisco to exact the additional duty prescribed by the above-mentioned section of 10 per cent. on all merchandise imported into San Francisco from Costa Rica by said steamers.

Respectfully,

W. T. LANE,
Secretary.

[Inclosure 2 in No. 538.—Extract.]

Mr. Leverich to the Pacific Mail Steamship Company.

SAN JOSÉ DE GUATEMALA, *November* 15, 1887.

DEAR SIRS: Costa Rica is still paying 5 per cent. rebate on all goods imported by the Campo steamers. Mr. Hall is still awaiting a reply from that Government to his protest. I would mention that Minister Von Bergen leaves shortly for Costa Rica for the express purpose to obtain, if possible, the same 5 per cent. rebate for goods per Kosmos and Hamburg American Packet Companies; so between Mr. Hall and Mr. Von Bergen, I hope the matter will shortly be arranged.

I have called Mr. Hall's attention to that shipment of cigars from La Libertad for Punta Arenas, which the shipper refused to forward by our line at Campo Line rates, owing to the 5 per cent. differential duty, and he will report this to the Department at Washington.

Respectfully,

J. H. LEVERICH,
Special Agent.

[Inclosure 3 in No. 538.]

Mr. Rice to Mr. Gould.

AGENCY PACIFIC MAIL STEAMSHIP COMPANY,
San Francisco, December 15, 1887.

DEAR SIR: Referring to our conversation on the subject of differential duties in favor of Del Campo Line to ports in Costa Rica, I have secured three letters from large shippers on our Panama Line on this subject. I find there are no shippers here who do not perfectly understand this to be the case. It is not only claimed by all houses in that country who order goods shipped from here, but is advertised in the Government organs of the country. This surely is a discrimination against an American line which is having its effect.

Very truly yours,

GEO. H. RICE,
Freight Manager.

[Inclosure 4 in No. 538.]

Messrs. Sperry & Co. to Mr. Rice.

SAN FRANCISCO, *December* 5, 1887.

SIR: Regarding your inquiries concerning the rebate in duties at the port of San José de Costa Rica, would say that our customers in Costa Rica have advised us that we should ship by the Spanish-American line, as they are able to collect 5 per cent. rebate on the duties, and they have also inclosed us advertisements cut from their papers stating such to be the case.

Hoping this will be satisfactory, we are, etc.,

SPERRY & CO.

[Inclosure 5 in No. 538.]

Messrs. Urruela & Urioste to Mr. Rice.

SAN FRANCISCO, *December* 7, 1887.

DEAR SIR: On the steamer *San Pablo*, arrived 5th instant from Hong-Kong, we have several invoices of silk goods for Central America. Among them there is G No. 11, one bale silk goods for Punta Arenas, Costa Rica, and we propose to you to take delivery of same here, we releasing the Pacific Mail Steamship Company from any claim whatever on this account, and assuming all the responsibility for this action. The freight to Punta Arenas has been prepaid at Hong-Kong, but we do not ask for the refunding of any part thereof, only to have the goods delivered to us here so that we can ship them in bond by one of the steamers of the Marquis de Campo's Line, thus insuring the 5 per cent. drawback in custom-house duties which the Government of Costa Rica allows on all merchandise shipped by said steamers.

Hoping for a favorable answer, we remain, etc.,

URRUELA & URIOSTE.

[Inclosure 6 in No. 538.]

Messrs. de Sabla & Co. to Mr. Rice.

SAN FRANCISCO, *December* 12, 1887.

DEAR SIR: In answer to your inquiry in regard to reduction of duties allowed on freight shipped to Costa Rica per steamers of the De Campo Line, we have been informed by several of our correspondents that the said reduction amounts to 5 per cent.

Very truly, yours,

EUGENE DE SABLA & CO.

[Inclosure 7 in No. 538.—Extract.]

Mr. Leverich to Pacific Mail Steamship Company.

SAN JOSÉ DE GUATEMALA, *December* 16, 1887.

DEAR SIRS: Although Mr. Hall has informed this Government of the wish expressed by the State Department that this company should be placed on the full 3 per cent. basis without the one-tenth per cent. discrimination, still no action has been taken to that end, and this one-tenth per cent. discrimination is still in force.

Mr. Hall has heard nothing from Honduras nor from Costa Rica in reply to his official communications. I inclose you press copy of my letter to Mr. Hall pointing out how handicapped this company is so long as the Costa Rica Government pays the 5 per cent. differential duty to the Campo Line.

If you will study the treaty with Costa Rica you will see that this discriminating duty is a direct violation of same, and being such I believe the tenth per cent. discriminating duty can be applied by the United States at San Francisco on all products imported by the Campo Line steamers from Punta Arenas. The present Campo steamer *Costa Rica* has on board 1,600 packages from Punta Arenas. I have also informed Mr. Hall of this. You can rely on Mr. Hall's most zealous efforts to get this differential duty either removed or granted to American vessels. I would mention that Minister Von Bergen has not yet left here for Costa Rica.

Respectfully,

J. H. LEVERICH,
Special Agent.

[Inclosure 8 in No. 538.]

Mr. Leverich to Mr. Hall.

GUATEMALA, *December* 14, 1887.

DEAR SIR: I beg to transcribe for your information the following from a letter which I have received from this company's agent at Punta Arenas, dated 24th ultimo:

"The 5 per cent. question is still in the same shape, and certainly this protection of

Campo induces importers to prefer this line, and more for articles like cigars, paying over $2 kilo duty. The *Guatemala* brought 80 tons of different goods from San Francisco to here."

This will show you how handicapped this company is in meeting this competition as long as this 5 per cent differential duty exists in favor of the Campo Line.

Yours, truly,

J. H. LEVERICH,
Special Agent.

No. 89.

Mr. Bayard to Mr. Hall.

No. 540.] DEPARTMENT OF STATE,
Washington, January 25, 1888.

SIR: I inclose for your information copies of papers, under oath, in relation to the claim of Julius R. Schultz, under Title LXXII of the Revised Statutes of the United States, as discoverer of guano deposits on Vivorilla Key, off the coast of Honduras.

I have explained in a letter to Mr. J. Gorham Moale, of Baltimore, of to-day's date, that the decision of the Department upon the claim of Mr. Schultz had been deferred, owing to a question of sovereignty over the island, and promised to acquaint him of the result of the Department's investigation as soon as practicable.

Accordingly, I will thank you to ascertain whether Vivorilla Key is under the dominion of the Government of Honduras, or other nation.

In this connection reference is made to your No. 41, of December 14, 1882, upon the subject.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 540.]

Affidavit of Julius R. Schultz.

To the Department of State of the United States of America, Washington, D. C.:

I, the undersigned, Julius R. Schultz, a citizen of the United States, in accordance with and in pursuance of the provisions of the Revised Statutes of the United States, Title LXXII, entitled "Guano Islands," and the amendments thereto, do respectfully give notice to the Department of State that on the 20th day of March, 1886, I discovered a deposit of guano, on a key of coral or limestone formation, on a reef about 4 miles in length, running north-northwest by south-southeast, in about latitude 15° 51′ north, and longitude 83° 19′ west.

The measurements of said key, called Vivorilla Key, are as follows, viz: Height, 15 feet; breadth, 380 feet; length, 1,550 feet.

That on the 31st day of January, 1887, I took peaceable possession of said key in the name of the United States and have since that time retained, and still retain, peaceable possession thereof. That at the time of the said discovery and of the taking possession of said key as aforesaid, the said key was not in the possession or occupation of any other Government, or of the citizens of any other Government. And I file herewith my declaration, made before Robert Shepherd, acting consular agent of the United States, Bluefields, Nicaragua; and the declaration of Capt. Jacob A. Peterson, marked Exhibit J. R. S. No. 1,* and a certified copy of the declaration of Capt. A. Hodgson, made before John S. Augustine, consular agent of the United States at the same place, marked Exhibit J. R. S. No. 2.*

All of which is respectfully submitted.

J. R. SCHULTZ.

* Inclosures not printed herewith.

UNITED STATES OF AMERICA,
District of Maryland, City of Baltimore, ss:

Before the subscriber, George Morris Bond, a commissioner appointed by the circuit court of the United States for the fourth circuit in and for the Maryland district, personally appeared before me, this 14th day of September, 1887, Julius R. Schultz, and made oath in due form of law that the matters and facts set forth in the aforegoing declaration or instrument of writing are true as therein set forth, and at the same time subscribed the same in my presence, "J. B. Schultz."

[SEAL.] GEORGE MORRIS BOND,
United States Commissioner for the District of Maryland.

No. 90.

Mr. Bayard to Mr. Hall.

[Extract.]

No. 543.] DEPARTMENT OF STATE,
Washington, January 28, 1888.

SIR: I have received your No. 763, of the 6th instant, relative to the Italian claim against Salvador; also your telegram of the 25th instant.

I desire to express the satisfaction with which the Department learns that this question has reached an amicable adjustment, and to add that the result is particularly gratifying in view of the manner in which it was obtained.

Awaiting your full report of the nature and extent of your good offices in bringing the parties into mutual accord,

I am, etc.,

T. F. BAYARD.

No. 91.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 769.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, January 30, 1888. (Received February 24.)

SIR: In continuation of my dispatch No. 763, of the 6th instant, I have the honor to inclose a copy of my note of the same date to the minister for foreign affairs of Salvador, tendering my good offices for the settlement of the question then pending between the Salvadorian and Italian Governments, and translations of his telegrams of the 9th and 12th instant in reply.

I arrived at the capital of Salvador on the 19th instant. Señor Magliano, the Italian chargé d'affaires, had already been there several days; the claim which had given rise to the difficulty had been discussed, but no progress had been made toward a settlement. The amount demanded by the claimant Sagrini through the Italian Government was upward of $530,000, a good part of which arose from interest at 18 per cent. per annum, compounded every six months, as stipulated in the contract; the claim without interest being about the half of that sum.

The day following my arrival the minister for foreign affairs informed

me that he had little hope of coming to an understanding with Señor Magliano, as their views were very wide apart. He asked me to suggest some way of bringing it about. Up to that time no sum had been mentioned by either party. I suggested that he should offer a specific sum of money, payable by installments. This was accepted by President Menendez, and on the following day a protocol was signed by which the Government of Salvador agreed to pay the sum of $270,000 in long installments, subject to the approval of the Salvadorian Congress and the Italian Government. I communicated the result to you by telegram.

Both parties expressed to me much satisfaction over this prompt and friendly settlement. The Government of Salvador expected to pay a much larger sum; the Italian chargé is satisfied that it is in every respect equitable and just, and is confident his Government will so consider it, whatever may be the ideas of the claimant.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 769.]

Mr. Hall to Señor Delgado.

LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Guatemala, January 6, 1888.

Mr. MINISTER: Señor Magliano, chargé d'affaires of Italy to Central America, will leave here in a few days for the capital of that Republic. He proposes to go overland *via* Santa Ana. I mention the fact in order that your excellency may, if deemed proper, notify the authorities at Santa Ana and the other places he will be likely to pass through.

His ostensible object in visiting Salvador is to present his credentials. He will also discuss with you the matter of the Sagrini claim. He has expressed a wish that I should accompany him, and my Government has so authorized me, provided it should also be the wish of your excellency's Government. I will therefore thank your excellency upon receipt of this note to telegraph me, so that, if desired, I may make my arrangements to leave by steamer on the 17th instant.

I have, etc.,

HENRY C. HALL.

[Inclosure 2 in No. 769.—Translation.]

Señor Delgado to Mr. Hall.

SAN SALVADOR, *January* 9, 1888.

SIR: I have just received your esteemed communication of the 6th instant. y Government returns to you its most sincere thanks for your generous offer and accepts it with the greatest pleasure. I earnestly request you to be pleased to inform me the day on which you leave for this Republic.

With consideration, etc.,

MANUEL DELGADO.

No. 92.

Mr. Hall to Mr. Bayard.

No. 770.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, January 30, 1888. (Received February 24.)

SIR: With reference to your instructions, numbered 516, 517, and 525, of the 2d and 5th of November and 9th December, 1887, to my dis-

patches No. 751 and No. 752, and to the subject of the discriminating duties to which merchant vessels of the United States are subject in the ports of Costa Rica, I have to inform the Department that while recently in Salvador I learned that the steamer *Costa Rica*, carrying the Costa Rican flag, had touched at Punta Arenas and other Central American ports and at nearly all of them had received cargo for San Francisco.

As I had the honor to report to the Department in my dispatches above mentioned, the Costa Rica Government still maintains a discrimination in favor of the Spanish Central American Line of steamers to which the *Costa Rica* belongs, to the prejudice of vessels of the United States, and as in your instruction No. 525, relating to the same subject, the wish of the Treasury Department to be informed of any further developments is expressed, I deemed it advisable to inform you of the movements of the steamer referred to, for any action the Treasury Department might be disposed to adopt in regard to the application of section 2502 of the Revised Statutes to the cargo, and accordingly addressed you from San Salvador on the 25th instant a telegram.

This steamer on her return from San Francisco will probably bring cargo for Costa Rica upon which there will be a rebate of 5 per cent. from the regular tariff rates upon imports.

I have, etc.,

HENRY C. HALL.

No. 93.

Mr. Hall to Mr. Bayard.

No. 771.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,

Guatemala, February 4, 1888. (Received February 24.)

SIR: With reference to my dispatches numbered 753 and 756 of the 12th and 21st December last, and 767 of the 13th ultimo, to your instructions 523 and 532 of the 6th December and 6th ultimo, and to other correspondence relating to the alleged seizure by Nicaraguan authorities of two small vessels carrying the flag of the United States, I have the honor to inclose herewith translations of a note, dated the 24th ultimo, from the minister for foreign affairs of Nicaragua, and of the several inclosures accompanying it, from which it would seem that as regards the schooner *Merida* the facts have been misrepresented.

From these papers it appears that the *Merida*, after having carried the Nicaraguan flag for a number of years and having become unserviceable as a sea-going vessel, was sold to Mr. N. P. Allen, a citizen of the United States. Mr. Allen had the vessel towed to the mouth of the Rama River, and it is claimed outside of the reservation, where he converted it into a shop, from which it is alleged a contraband trade was carried on, liquors were sold without license, it was rendezvous of gamblers and disorderly persons of both sexes; over this disreputable resort the owner had raised the American flag, and it would seem claimed exterritoriality.

General Urtecho's letter to the consular agent at Bluefields, inclosure 4, is probably a correct version of the affair, although it may have been communicated already. I beg to commend it and its inclosures to your notice.

I am, etc.,

HENRY C. HALL.

[Inclosure 1 in 771.—Translation.]

Señor Zavala to Mr. Hall.

DEPARTMENT OF FOREIGN RELATIONS,
Managua, Nicaragua, January 24, 1888.

SIR: I have before me your courteous communication of the 21st December last past, in which your excellency calls the attention of my Government to the reports received from the consul at San Juan del Norte, in regard to the seizue of two American vessels by the Nicaraguan authorities established at the mouth of the Rama River, near to the territory of the Mosquitia Reservation.

Complying with the wishes your excellency expresses by instruction of your Government, I have to inform you that the acts to which these reports refer have not taken place.

Inclosed herewith I send your excellency copies of a dispatch from the minister of Government, and of communications upon the subject, addressed to the Government and to the American consular agent by the governor and intendent of the district of the Siguia. By these documents your excellency will perceive that there has been no undue seizure of any American vessel, and all that occurred was the searching of the schooner *Merida* of Mr. N. P. Allen, which unseaworthy vessel, unfitted for navigation, had been converted into a store-hulk, in which a contraband trade and a retail trade in strong liquors were carried on without payment of the license dues established by law, and without the permission of these authorities; the vessel was also a general center of frequent disorderly acts of all kinds.

I have no doubt that the foregoing will suffice to explain the conduct of the Nicaraguan authorities in the Siguia district, and that the consul at San Juan del Norte, with better data in his possession, will have rectified his reports.

With assurances, etc.,

ADRIAN ZAVALA.

[Inclosure 2 in 771.—Translation.]

The minister of government to the minister for foreign affairs of Nicaragua.

MANAGUA, *January* 12, 1888.

SIR: In response to the wishes expressed in your note of yesterday I inclose an authenticated copy of the report of the Government intendent of the district of Siguia to this ministry concerning the search ordered to be made by Nicaraguan authority of the schooner *Merida*, belonging to Mr. N. P. Allen, an American citizen.

In that document it is clearly shown that there was no seizure of any vessel whatever, and that the search of Mr. Allen's schooner, turned into a commercial establishment, was made in virtue of a complaint made to the governor of police of Siguia that great disorders were committed therein, and strong liquors were sold at retail without the license of the authority, and without payment of the duties established by law.

With every consideration, etc.,

DAVID OSORNO.

[Inclosure 3 in 771.—Translation.]

General Urtecho to the minister of government of Nicaragua.

REPUBLIC OF NICARAGUA AND INTENDENCY OF THE DISTRICT OF SIGUIA,
December 20, 1887.

SIR: In the section of cablegrams of the "Diario Nicaraguense" of the 3d instant appears the following:

"NEW ORLEANS, *November* 29, 1887.

"The captain of the steamer *Harlan* publishes a letter signed by the captain of the schooner *Merida* in Escondido River, announcing that on the 20th of November Nicaraguan soldiers seized his schooner and the steamer *William S. Moore* without any cause therefor, and being asked by what right they did so, showed their rifles."

In anticipation of your inquiry I report to you what actually took place, and I do this making use of the annexed copy of a communication on the subject which I addressed to the consular agent of the United States at this port, in which all the facts are set forth.

With high respect, etc.,

ISIDORO URTECHO.

[Inclosure 4 in No. 771.—Translation.]

General Urtecho to the United States consular agent at Bluefields.

No. 21.] REPUBLIC OF NICARAGUA,
GOVERNMENT AND INTENDENCY OF THE DISTRICT OF SIGUIA,
Bluefields, December 16, 1887.

SIR: I have received your communication of the 14th instant relative to the complaints presented to your consular office by N. P. Allen, an American citizen, in consequence of a search ordered to be made by Nicaragua authorities of his vessel, the schooner *Merida*, lying on the banks of the Rama River. I have taken note also of the letter addressed to you by the same Mr. Allen, and of which you transmit me a copy.

I give you with much pleasure the information you ask for upon the subject, but before entering into the facts which gave rise to the complaint, permit me to make known the antecedents which will enable you to form a correct judgment of the case.

The so-called schooner *Merida* is not, properly speaking, a vessel; it was at one time, and when it became useless for navigation, was towed to the river and made fast to the shores of the Rama and Siguia, and was made use of as a trading establishment. Such at present is the schooner *Merida* of Mr. Allen.

In that establishment every kind of trading is carried on without the least regard to morality; there is gambling and drinking, and it has become a general resort for men and women, who may be properly styled *professionals*. What the schooner *Merida* was as a focus of rioting, before the establishment of Nicaraguan forces in that locality, every one here can inform you; but better than that, the wounds that Mr. Allen carries upon his body are indelible marks of that life of libertinage. Since the establishment of Nicaraguan forces at that point things have improved very much, but they are still far from being satisfactory. I now take up the subject of your communication.

The ordinance of the district of Siguia, within whose jurisdiction Mr. Allen resides, prohibits the introduction of spirituous liquors, without the previous payment of duties. Besides special laws upon the subject prohibit the retailing of the same liquors without the license of the authority.

On the 20th November last there was a fight on board the *Merida* between men under the influence of liquor, and in consequence the clandestine sale of ardent spirits by Señor Allen was denounced to the governor of police. In virtue thereof, the establishment (hulk) was searched; the act was perfectly correct, inasmuch as Mr. Allen had neither paid duties nor did he hold a license.

Mr. Allen refused to permit the search, closed the establishment, threw the keys at the police agent and withdrew. A servant of the same establishment picked up the keys, and through him the search was made. A small demijohn, with a small quantity of rum, was found, and also very marked indications of liquors having been run off. After the search the keys remained in the possession of the same servant, and in the afternoon of the same day Mr. Allen was, by his own voluntary act, at the head of his establishment again, which indicated that he withdrew his claims and protests. This all took place with Mr. Allen.

He claimed that he held an old license from the authorities of the reservation, but this subterfuge has no value whatever; aside from other reasons, which it is unnecessary to set forth at this time, the laws of the reservation prohibit the sale of liquors outside of the towns, and in no case would it have been conceded to Mr. Allen.

With high consideration, etc.,

ISIDORO URTECHO.

No. 94.

Mr. Bayard to Mr. Hall.

No. 549.] DEPARTMENT OF STATE,
Washington, February 6, 1888.

SIR: I transmit for your information, in connection with previous correspondence, a copy of a letter addressed by me to the Secretary of

the Treasury to-day relative to the imposition of a discriminating duty of 10 per cent., as provided by section 2502 of the Revised Statutes of the United States, upon the cargoes imported at San Francisco from Costa Rica by the vessels of the Spanish Central American Line.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 549.]

Mr. Bayard to Mr. Fairchild.

DEPARTMENT OF STATE,
Washington, February 6, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, inclosing a draught of a letter to the collector of customs at San Francisco, in relation to the imposition of the 10 per cent. discriminating duty under section 2502 of the tariff act of March 3, 1883, on the cargo of the steamer *Costa Rica*.

The third paragraph of the letter reads as follows:

"Merchandise imported in said steamer, with the exception of such as is covered by the terms of Article VI of the treaty of 1851 with Costa Rica, is subject to the discriminating duties levied by section 2502 of the tariff act of March 3, 1883."

The only suggestion the Department wishes to offer is whether the discriminating duty should not be imposed on all the merchandise on the vessel, as the discriminating rebate of duties on merchandise imported into Costa Rica on vessels of the line in question is understood to apply to all merchandise, whether the growth, produce, or manufacture of the United States or not.

If it should be deemed advisable not to raise this treaty question as yet it might perhaps be well explicitly to state that there shall be excepted from the imposition of the discriminating duty such merchandise as may be the growth, produce, or manufacture of the Republic of Costa Rica.

In the opinion of the Department, however, the discrimination now made by Costa Rica in favor of merchandise imported on the vessels of the Central American Line being applied to all merchandise, is violative of Article VI of the treaty of 1851 between the United States and Costa Rica, and would justify this Goverument in regarding its provisions as temporarily suspended by Costa Rica.

I inclose herewith, for your further information, copy of a letter of the 1st instant to this Department, from the secretary of the pacific Mail Steamship Company.

I have, etc.,

T. F. BAYARD.

[Inclosure 2 in No. 549.]

Mr. Lane to Mr. Bayard.

CONTINUED IMPOSITION OF A DISCRIMINATING DUTY OF 5 PER CENT. BY COSTA RICA AGAINST AMERICAN VESSELS IN FAVOR OF THOSE OF THE SPANISH CENTRAL AMERICAN LINE.

PACIFIC MAIL STEAMSHIP COMPANY,
New York, February 1, 1888.

SIR: Referring to previous correspondence, and especially to our letter of the 27th ult., relating to the above subject, I now beg to hand to you a further extract from a letter just received from our special agent, Mr. J. H. Leverich, at the city of Guatemala, under date of January 7, 1888, from which you will notice that M. Leverich states that the 5 per cent. question was then *in statu quo*, and that the Marquis de Campo's steamer *Costa Rica* had landed 125 tons of goods from San Francisco under that protection.

Asking that you will kindly communicate this to the Treasury Department,

I remain, etc.,

W. T. LANE, *Secretary*.

[Inclosure 3 in No. 549.—Extract.]

Mr. Leverich to Mr. Lane.

COSTA RICA—DIFFERENTIAL DUTIES.

GUATEMALA, *January* 7, 1888.

DEAR SIRS: I am glad to hear you intended asking Mr. Bayard now to urge action on the part of the Treasury Department against Costa Rica in the shape of the 10 per cent. discriminating duties on goods imported into San Francisco under the flag of that Republic. My latest advices from Punt a Arenas are that the 5 per cent. question is still *in statu quo* and that the *Costa Rica* landed 125 tons of goods from San Francisco under that protection.

Respectfully, etc.,

J. H. LEVERICH.

No. 95.

Mr. Bayard to Mr. Hall.

No. 550.] DEPARTMENT OF STATE,
Washington, February 7, 1888.

SIR: I have received your No. 766 of the 11th ultimo. It appears that the Government of Guatemala in 1881 granted a concession to an association of Americans for the construction of a railway from Champerico to Retalhuleu; that the "Champerico and Northern Transportation Company of Guatemala" successfully carried out the provisions of the concession, article 2 of which stipulated that no person or enterprise should have power to construct a railroad at a less distance than 15 leagues on either side of the line, and that by lately granting another concession to Messrs. J. L. Buerron & Co. to construct and operate a railroad from Ocos to Quesaltenango, lying within the previous concessionary line, Guatemala, it is claimed, has violated its obligation of 1881. Accordingly, the Champerico Company has protested to the national Government against this infringement of their rights, and filed a copy of such protest with your legation.

To enable the Department to act in this matter, should they desire its future intervention in behalf of their rights, the Champerico Company should set forth their complaint in a memorial properly sworn to and supported by affidavits, in accordance with the provisions of the circular, several copies of which are herewith transmitted for your own and the company's information, through its agent.

I am, etc.,

T. F. BAYARD.

No. 96.

Mr. Hall to Mr. Bayard.

No. 773.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, February 10, 1888. (Received March 6.)

SIR: With my dispatch No. 691 of the 22d July, 1887, I had the honor to transmit a copy and translation of an additional contract, dated the 14th June of the same year, between the Marquis de Campo and the

Government of Salvador, by which the latter agreed to concede to the line of Spanish Central American steamers, an indirect rebate of 3 per cent. in the import duties upon merchandise brought to Salvador by the steamers of that line.

In my subsequent dispatch, No. 700, of the 30th August last, I transmitted a copy and translation of an executive order of that Government, dated the 17th of the same month, extending the rebate to all regular lines of steamers and sailing vessels.

I now inclose a copy and translation of another executive order, dated the 27th ultimo, revoking that of the 17th August last. The reasons given are that the Marquis de Campo, through his agent, has officially informed the Government that it is impossible for him to carry out his contracts for a service of steamers, and that in consequence, the order of the 17th August has no longer any object.

There is no allusion to the contracts of May 6, 1886, and June 14, 1887, but it may be inferred, in view of the premises, that they will be held to have lapsed.

The steamers referred to continue to ply between Panama and San Francisco, but not with any regularity.

I am, etc.,

HENRY C. HALL.

Inclosure in No. 773.—Translation.—From the Diario Oficial of Salvador of the 28th January, 1888.]

DEPARTMENT OF PUBLIC WORKS,
National Palace, San Salvador, January 27, 1888.

The executive power, taking into consideration that the Marquis de Campo, through his agent in this republic, has officially notified the department of public works that it is impossible for him to carry out the contract with this Government in regard to a service of Spanish steamers, and that in consequence the executive order of the 17th of August, by which the indirect subvention, established by article 1 of the additional contract of the 6th June of last year, was extended to all regular lines of steamers and sailing vessels complying with the terms thereof, has ceased to have any object, decrees the revocation, in all its parts, of the above-mentioned executive order of the 17th of August of the past year.

Signed by the President.

ALVARADO,
Secretary of Public Works.

No. 97.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 775.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, February 16, 1888. (Received March 6.)

SIR: In continuation of my dispatch No. 718 of the 12th of October, and referring to your instruction No. 517 of the 5th of November, 1887, and to other correspondence relating to the differential duty of 5 per cent. which the Government of Costa Rica applies to vessels of the United States at the port of Punta Arenas on the Pacific, I have now to inform the Department that after a delay of nearly three months the minister for foreign affairs has replied to my note of the 12th of October last, a copy of which accompanies my dispatch above referred to.

I beg leave to inclose a copy and translation thereof, and a copy of my reply thereto, to all of which I respectfully invite the Department's notice.

The minister refers to the contracts of his Government with certain British and German lines touching at Port Limon on the Atlantic, which enjoy the same rebate of 5 per cent., and I will add to the exclusion of our vessels, although probably more than three-fourths of the export trade of Costa Rica by that port is with the United States.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 775.—Translation.]

Señor Esquivel to Mr. Hall.

DEPARTMENT OF FOREIGN RELATIONS,
San José, Costa Rica, January 10, 1888.

Mr. MINISTER: I had the honor to receive the note of your excellency of the 12th of October of the past year, in which you are pleased to manifest that the contract made by this Government with the Marquis de Campo Line of steamers is contrary to the stipulations of the treaty of commerce of 1851, between Costa Rica and the United States, inasmuch as in addition to granting a subsidy to the enterprise a rebate of 5 per cent. in customs duties is conceded upon all importations by this line, and that during the ten years of the duration of that contract no other line of steamers shall be granted a like concession. Your excellency believes that the stipulations referred to are not in harmony with the reciprocal freedom of commerce stipulated in the treaty of 1851, nor with its provisions that no higher duties shall be demanded of American vessels in Costa Rica than of the vessels of any other nationality whatsoever, and upon this point your excellency informs me that you are authorized by your Government to say that the alteration of the tariff in favor of the Spanish enterprise overpasses the limits of subsidies to lines of steamers and will cause the ruin of American freighters on these coasts. Finally after expressing the necessity of your protesting, and of your Government protesting, in case that the contract with the Marquis de Campo should be sustained, of establishing differential duties upon merchandise conveyed by the Spanish Line from Costa Rica to American ports, your excellency concludes by suggesting that the rebate of 5 per cent. shall be extended to American vessels touching at Costa Rican ports on the Pacific. The nature of this subject and the strict observance of its international engagements which has always been characteristic of my government require that my reply be extended so as to present to your excellency considerations which, I doubt not, will convince you that the contract with the Marquis de Campo is not contrary to the treaty of 1851, and that the concessions made to him do not go beyond the natural powers of the Costa Rican Government nor of the subsidies that are granted to steamer lines.

My Government has been anxious to increase its maritime communications for the benefit of its commerce in general, and as in this Republic there are not yet sufficient inducements to attract spontaneously lines of steamers to our ports, it has been necessary to stimulate them by means of concessions or subsidies, and this has been done with the lines which touch at the port of the Atlantic as well as those which touch on the Pacific.

In regard to the first, that is to say, Limon, a decree of the permanent commission issued on the 15th of January, 1885, and approved by Congress on the 31st of May of the same year, authorizes the executive power to make contracts for the time deemed requisite with the different companies of steamers on the Atlantic which should bind themselves to touch at least once a month at the port of Limon, to bring and convey the mails gratis, and to reduce their freights in benefit of commerce. The authorization granted by the said law was extended to the companies by conceding to them a rebate of 5 per cent. from the customs duties upon merchandise imported or exported by their respective vessels.

In virtue of these legal powers, my Government, in the contract made on the 9th of June, 1885, with the Atlas Company, plying between Limon and New York, and *vice versa*, conceded a rebate of 5 per cent.; it conceded likewise the rebate of 5 per cent. on the 20th of August, 1885, to the Harrison Company, and on the 19th of October of the same year to the British Royal Mail; on the 10th of January, 1886, to Minor C. Keith, a citizen of the United States, as the owner of the steamer *Foxhall* (sailing under the British flag), and on the 21st of August, 1887, to the Hamburgh-American Line.

Referring now to the port of the Pacific, Punta Arenas, I have to apprise your excellency that for a long time no other line of steamers besides the Pacific Mail had touched there, and its service was not sufficient for the necessities of the commerce which has been increasing on that side between this Republic, the ports of Central America, and California. The Pacific Mail placed us in communication with San Francisco once a month only, while to-day we have that communication assured four times a month by the Marquis de Campo Line.

This line makes a considerable rebate in freights and passages, a point to which I beg to be permitted to call your attention, for it can not be disguised that American commerce would unquestionably gain by taking advantage of the facilities which the Spanish line affords for placing its merchandise at Punta Arenas at an expense for transportation much less than the former tariff rates of the Pacific Mail, the only line which formerly touched at our Pacific port.

Even to-day no other American line plies between Punta Arenas and San Francisco, and the Pacific Mail has no cause of complaint against the Government of Costa Rica, because it is subsidized by the sum of $12,000 a year, which it will still continue to enjoy during the present year.

In addition to the foregoing I beg to inform you that the Marquis de Campo's Line renders the Costa Rican Government special and very important services. It makes a rebate of 25 per cent. in freight upon articles which the Government imports for its own account, carries gratuitously the diplomatic ministers and employés who travel on commission of the Government; it affords also, besides that, four passages every year between Panama and San Francisco; it is bound to carry troops at half the tariff rates, the same also for laborers who enter or leave the Republic by order of the Government; it admits every year four young men to learn the duties of navigators, four others as engineers and quartermasters, and twelve as helmsmen; finally it is under the obligations and responsibilities established by the contract of the 1st of July of last year.

The advantages set forth and the services expressed therein my Government remunerates in part by the rebate in customs duties; and it is to be noted that to-day the Spanish company enjoys solely this rebate, while the Pacific Mail, without all of the obligations weighing upon it, which the Marquis de Campo's Line has accepted, enjoys the before-mentioned subvention, which is paid in coin.

Your excellency will observe at once that no difference has been established in favor of the Spanish marine, which might give cause to say that an international inequality had been established in contravention of the treaty of 1851. In reality it is nothing more than a remuneration conceded to a private enterprise for the special services it renders, and neither the merchant marine of any other nation nor even the Costa Rican can consider themselves injured. And your excellency will permit me to call your attention also to the fact that the contract with the Marquis de Campo does not prohibit the making of similar concessions, but solely the extension of greater favors to another company.

From the foregoing it may be deduced that my Government, in granting the rebate of customs duties in exchange for services rendered, has had no other thought than to attract to our ports an indispensable element for the service of commerce, and to remunerate such services without prejudice to any one and without infraction of the rules which international compacts impose.

Although I believe I have already sufficiently answered the note which has given rise to this communication, I will intimate to your excellency that my Government, in its anxiety to increase, so far as possible, means of maritime communication, proposes to submit opportunely to the legislative power a project asking its authorization to grant to the lines of steamers which touch at Punta Arenas the same rebate of 5 per cent. whenever they undertake, in behalf of this Republic, obligations like those of the lines which touch at the Atlantic port and enjoy that concession.

I improve this opportunity to renew to your excellency my distinguished consideration and to subscribe myself,

Your obedient servant,

ASCENSION ESQUIVEL.

[Inclosure 2 in No. 775.]

Mr. Hall to Señor Esquivel.

UNITED STATES LEGATION IN CENTRAL AMERICA,
Guatemala, February 14, 1888.

Mr. MINISTER: Absence from this legation has prevented my giving earlier attention to the courteous note of your excellency of the 10th ultimo, relative to the differential duties to which vessels of the United States are subject at the port of Punta Arenas, in consequence of the rebate in import duties conceded by your excellency's Govern-

ment to the line of steamers of the Marquis de Campo, plying between Panama and San Francisco.

In the first place I beg leave respectfully to explain that the statement contained in my note of the 12th of October last, to the effect "that by the terms of the contract with the Marquis de Campo equal advantages can not be conceded to other lines of vessels," was made under the erroneous impression that the corresponding clause in the contracts of the Marquis de Campo with the other Central American Governments was the same in the contracts with Costa Rica. I now find that in the latter "*mayores ventajas*" only are mentioned, while in the former, "*iguales ó mayores ventajas*" are stipulated.

I regret that I can not concur with your excellency in that the rebate of 5 per cent. of import duties, conceded to the vessels of the Marquis de Campo, is not contrary to the treaty of 1851 between the United States and Costa Rica. The object and intention of the treaty may appear to be sufficiently clear; it stipulates for reciprocal freedom of commerce between the two countries, and surely there can be no such reciprocity when the vessels of one party are subject to differential duties in the ports of the other. One of the steamers of the Marquis de Campo's Line sails under the Costa Rican flag; that this steamer should enjoy exceptional advantages in Costa Rican ports over vessels of the United States, is, in my judgment, clearly contrary to the letter as well as the intentions of the treaty as expressed in its Article VI. The treaty establishes absolute and *unconditional* equality of the vessels of both nations in the ports of each other.

In my note of the 12th of October last I stated "that the treaty of 1851 stipulates substantially that no higher duties shall be collected upon merchandise imported into Costa Rica in vessels of the United States than shall be collected upon merchandise imported in vessels of any other nationality and *vice versa*." If such is not the object and intention of the treaty, it is difficult to imagine why any reference is made therein to reciprocal freedom of commerce or to duties on imports.

That this rebate overpasses the legitimate limits of all subsidies to vessels and in many instances greatly exceeds the rates of freight charged by other lines, making a fair competition impossible, I beg leave to cite the following case of recent occurrence.

In December last, a steamer arrived at San Francisco from China having on board, among other consignments for Central America, a bale of silk goods upon which freight had been paid at Hong-Kong through to Punta Arenas. To avail himself of this rebate in duties in Costa Rica, the consignee at San Francisco had the goods surrendered to him for shipment by one of the Marquis de Campo's steamers, and without demanding a return of any part of the already prepaid freight to Punta Arenas, showing that the rebate must have exceeded double the amount of freight money by any other line of vessels than that of the Marquis de Campo.

With reference to your excellency's suggestion that American commerce would unquestionably gain by taking advantage of the facilities which the so-called Spanish line affords, I beg leave to express my doubts whether my Government, after having secured by treaties an equality of treatment for American vessels in the ports of the principal nations of the world, would be prepared to surrender such rights or to see the foreign commerce of the United States transferred to the Spanish flag.

I am well aware that the contract with the Marquis de Campo does not establish a differential duty in favor of the Spanish mercantile marine, but I fail to perceive that this fact in any way warrants the inequality which that contract establishes against American vessels in the port of Punta Arenas, where they pay a higher rate of duties than is paid by the vessels of the before-mentioned line. The advantages the Government of your excellency derives from the steamers of that line should, of course, be remunerated, but there ought to be some other way of doing this than the one adopted of subjecting vessels of the United States and of other nationalities to differential duties.

In regard to the rebate of 5 per cent. conceded to the several lines of British and German steamers which touch at Limon, I beg leave to say that in my opinion it is as contrary to the treaty with the United States as is the same rebate conceded to the Marquis de Campo's line on the Pacific. While it exists merchant vessels of the United States are practically excluded from the import trade of that port by the differential duties established against them. The same may be said of the contract of the 5th of July, 1887, with Don Pedro Ferres for the establishment of a line of sailing vessels under the Costa Rican flag between Limon and ports of Europe, extended by decree of the 30th of the same month to the vessels of Señor Ferres on the Pacific, to both of which the same rebate of 5 per cent. is conceded.

My Government will be gratified to learn that it is the intention of that of your excellency to solicit the authorization of the legislative power to grant to all lines of steamers which touch at Punta Arenas the same rebate of 5 per cent. now enjoyed by the Marquis de Campo's steamers; it conceives, however, that under the existing treaty vessels of the United States are entitled to this rebate *unconditionally*, so long

as it shall be extended to any other line or lines of vessels, whether of Costa Rican or of any other nationality.

I beg to be permitted to add that these representations are made by instructions of my Government, and in the general interest of American shipping.

Renewing to your excellency the assurances of my highest consideration and respect, I have the honor to subscribe myself,

Your obedient servant,

HENRY C. HALL.

No. 98.

Mr. Bayard to Mr. Hall.

No. 554.] DEPARTMENT OF STATE,
Washington, February 27, 1888.

SIR: I learn that much disquietude is felt in Nicaragua by reason of rumors that the plan of consolidation or amalgamation of the Central American Republics, which received so serious a check when undertaken by General Barrios a few years ago, is proposed to be revived by his successor, General Barillas.

The strong disapproval of the United States exhibited to any steps of coercion or constraint by one or more of the Central American States toward their neighbors to bring about a union was unequivocally manifested in the instructions sent to you in 1885. The circumstances under which General Barillas assumed the reins of government in Guatemala after the death of General Barrios seemed to afford hopes of permanent tranquillity in that State and its good relationship with the other States of the Central American group, and the Government of the United States has indulged the friendly hope that no schemes of dictatorial power or undue predominance in the councils of Central America, and no disturbance of the peace of our neighbors, would meet with encouragement under the presidency of General Barillas. We are unwilling to abandon this hope, and it would be very gratifying to have it confirmed by receiving assurances from the Government of Guatemala of the groundlessness of the reports which now reach us.

The great interest expressed in the proposed construction of the inter-oceanic canal by citizens of the United States, under charter granted according to the laws of the United States, and the concern naturally felt for the security of the vast capital necessary for the accomplishment of such a work under effective guaranties of stability and order, should serve to advise the statesmen of Guatemala of the new and important enterprises thus inaugurated, and lead them to realize the magnitude of the concern which would necessarily be felt should any ill-counseled plans of domination or control cast a doubt upon the capacity of the independent Central American States to maintain orderly and local self-government, and observe relations of good-will toward each other.

Military movements are at all times hostile to peaceable commercial interests, and any observable tendency in such a direction at the present juncture could not fail to seriously discompose the excellent plans now in progress to construct the canal, and thereby to advance the commercial position of all the Central American States, in which general advancement Guatemala could not fail to share in due proportion to her commercial importance and the enterprise of her citizens in the paths of commercial advantage.

You will carefully inquire whether any ground exists for the apprehensions to which I have adverted, and will likewise take an early and

discreet occasion to convey to the Government of President Barillas the views of the Government of the United States, which are consistently and strongly in disapproval of a coercive union of the Central American Republics and favorable to their independent, tranquil, and harmonious continuance under the reign of constitutional law. It will require but little statement or argument on your part to emphasize the feeling of disquietude and the grave results of unfriendliness which would be created if the capital and interests of citizens of the United States in Central America should be jeopardized by the ambitions of any of those States, and the paramount urgency of avoiding such a contingency by all available means, of which frank and friendly counsel is not the least.

I am, etc.,

T. F. BAYARD.

No. 99.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 779.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,

Guatemala, February 23, 1888. (Received March 16.)

SIR: In answer to your instruction No. 540 of the 25th ultimo, received on the 16th instant, I have the honor to inclose translations of the telegrams exchanged with Señor Zelaya, minister for foreign affairs of Honduras, relating to the nationality of Vivorilla Key, lying off the coast of that Republic.

It would seem that the Government had to apply to the governor of the coast department of Colon for information; he replied that the key is in the jurisdiction of Honduras, and that it is situate 33 miles to the north of the mouth of the "Coratzca" lagoon, which lies near to the coast and not far from the Nicaraguan frontier. The name of the lagoon is no doubt incorrectly given in the telegram; in some maps the name is "Catargo," and in others "Cataraca." I imagine there can be no doubt but that the key belongs to Honduras.

Upon receipt of the minister's telegram of the 21st I cabled the following to the Department:

Minister for foreign affairs of Honduras telegraphs, Vivorilla Key within the jurisdiction of Honduras.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 779.—Telegram.—Translation.]

Mr. Hall to Señor Zelaya.

GUATEMALA, *February* 17, 1888.

I greet your excellency, and by instruction of my Government request your excellency to be pleased to inform me whether Vivorilla Key, situate about 180 miles from Ruatan, Bay of Honduras, is in the jurisdiction of that Republic?

HENRY C. HALL.

[Inclosure 2 in No. 779.—Telegram.—Translation.]

Señor Zelaya to Mr. Hall.

TEGUCIGALPA, *February* 19, 1888.

I have asked for information from Puerto Cortes and Truxillo, in order to reply with certainty to your telegram respecting Vivorilla Key.

Your obedient servant,

JERONIMO ZELAYA.

[Inclosure 3 in No. 779.—Telegram.—Translation.]

The same to the same.

TEGUCIGALPA, *February* 21, 1888.

The governor of the department of Colon communicates by telegraph the following:

"Vivorilla Shoal and Keys are in our jurisdiction. They are situate 33 miles to the north of the mouth of Coratzca* (?) Lagoon. It contains limestone and some guano."

Your obedient servant,

JERONIMO ZELAYA.

No. 100.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 788.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Guatemala, March 16, 1888. (Received April 7.)

SIR: I have the honor to acknowledge the receipt, this evening, of your instruction No. 554 of the 27th ultimo, relating to the reported disquietude felt in Nicaragua by reason of the rumors that the plan of consolidation attempted by President Barrios in 1885 is to be revived by his successor, President Barillas.

While I am quite sure that all such rumors are without foundation or justification, I shall take an early opportunity to obtain an authoritative statement in regard to their truth or falsity.

I have, etc.,

HENRY C. HALL.

No. 101.

Mr. Bayard to Mr. Hall.

No. 560.] DEPARTMENT OF STATE,
Washington, March 23, 1888.

SIR: I have pleasure in transmitting for your information a copy of a note from the minister of Italy† here, dated the 18th instant, convey-

* The name of the lagoon is no doubt incorrectly transmitted. On some maps the name is "Catargo" and on others Cataraca.

† For inclosure see Doc. No. 722, *post*, p. 1050, under "Italian correspondence."

ing an expression of his Government's thanks for your efforts in bringing to an equitable adjustment the claim of the Italian Sagrini against Salvador.

I am, etc.,

T. F. BAYARD.

No. 102.

Mr. Bayard to Mr. Hall.

No. 562.] DEPARTMENT OF STATE,
Washington, March 27, 1888.

SIR: I herewith transmit fourteen copies each of the report of Mr. George L. Rives, Assistant Secretary of State, to the President, and of the latter's decision as arbitrator, pursuant to the treaty of December 24, 1886, between Nicaragua and Costa Rica, concerning the validity of the treaty of limits between those Republics, concluded April 15, 1858.* One copy of each of these documents is to be permanently retained on the files of your legation. The others you are at liberty to distribute as you may think best.

The originals of the President's award were by his direction delivered to the respective ministers of Nicaragua and Costa Rica at this capital, Dr. Horacio Guzman and Señor Don Pedro Perez Zeledon, the 24th instant.

Adding, in conclusion, that ten copies of each document herewith transmitted have been sent to the consuls of this government at Managua, San José de Costa Rica, and San Juan del Norte,

I am, etc.,

T. F. BAYARD.

No. 103.

Mr. Bayard to Mr. Hall.

No. 563.] DEPARTMENT OF STATE,
Washington, March 27, 1888.

SIR: In your dispatch No. 766, of January 11, 1888, you reported the protest made by the managing director of the Champerico and Northern Transportation Company of Guatemala against certain acts of the Guatemalan Government which, it was asserted, constituted a violation of the contract between that Government and the company.

On February 7 last, by instruction No. 550, I informed you that the subject could not be considered by the Department unless the case were brought to its attention by a memorial supported by affidavits.

This memorial has now been furnished, and the facts already reported, with considerable fullness of detail, in your No. 766, are all in the possession of the Department.

Mr. Sanford Robinson, the managing director of the company, has submitted, besides the memorial—a copy of which I inclose—a copy of the concession for the construction of the railroad which he represents, and of the report of Mr. Rockstroh, of the Guatemalan Government.

* For inclosures see Doc. No. 314, *post*, p. 456.

These papers are annexed to your dispatch, already adverted to, and no copies of them need be now transmitted to you. Mr. Robinson further submits a copy of the decree of September 24, 1884, accepting his road, and of the concession recently granted for the construction of a road from Ocos to Quesaltenango, which you will find published in the Official Gazette for October 4, 1884, and December 15, 1887, respectively.

From these documents it appears that on March 12, 1881, the Government of Guatemala entered into a contract with Messrs. Lyman, Fenner, and Bunting, citizens of the United States, for the construction of a railroad from Champerico, on the Pacific coast, to Retalhuleu, a town about 30 miles in the interior. Certain modifications were made by a separate instrument dated May 30, 1882. The contract as modified was subsequently assigned to the petitioner, the Champerico and Northern Transportation Company of Guatemala, a corporation organized under the laws of the State of California, who completed the road and now possess and operate it.

By the contracts in question the Government of Guatemala granted to Mr. Lyman and his associates authority to build and to operate for ninety-nine years a railroad from Champerico to Retalhuleu, at the end of which time the road with all rolling stock, etc., should become national property. The Government further agreed that for twenty-five years from the date of the opening of the line for traffic no other railroad should be operated between these terminal points and none other should be constructed within 15 leagues on either side of the line. The Government further agreed to assist the enterprise by a subvention of $700,000 in bonds receivable at the Champerico custom-house for 25 per cent. of the export or import duties there collected. The Government further granted land in aid of construction, besides giving the road-bed and land for stations; and it exempted the enterprise for the term of twenty-five years from all taxation, including duties on articles imported for the construction and maintenance of the road. The grantees were bound to build and equip their railroad in a specified manner and to begin and complete it by a specified time under penalty of forfeiture, and to deposit $10,000 as guaranty of performance on their part.

Other features of this contract will be referred to below.

The railroad was built in accordance with the contract and accepted by the Guatemalan Government on September 24, 1884, and the $700,000 in bonds duly delivered to the grantees or their assigns.

Up to the end of 1884, therefore, there is no evidence of any dispute between the railroad company and the Government.

It is now asserted by the petitioners that on July 31, 1885, when about $441,000 of the bonds remained unredeemed, the Government of the Republic issued a decree suspending payment of the bonds for one year, which suspension has since continued in force, although interest at 6 per cent on the unredeemed bonds has been paid for some portion of the intervening time.

It is further alleged that on November 8, 1887, the Government of Guatemala, by a contract dated on that day, granted to J. L. Bueron & Co. the right of constructing and working a railroad from the port of Ocos to the city of Quesaltenango, which contract was approved and ratified by the constituent assembly on November 14, 1887, and approved by the President of the Republic on December 15, 1887. The port of Ocos is situated on the Pacific Ocean in Guatemalan territory to the northward of Champerico. The distance between Champerico

and Ocos is stated by you to be about 8 leagues; and the distance between Champerico and the mouth of the Suchiate River, which forms the boundary between Guatemala and Mexico, is said to be a little less than 56 kilometers or about 35 miles. Any railroad terminating at Ocos must, therefore, run within much less than 15 leagues of the petitioner's road throughout its entire length, and the construction of such a line would seem to be in plain violation of the exclusive privileges conferred upon the assignors of the petitioner.

These privileges, as already pointed out, were contained in the clauses guarantying that no other railroad should be constructed within 15 leagues of the petitioner's road during the first twenty-five years of its existence.

The transaction, as above stated, can not be treated as open to the objections which could be made to a grant of a perpetual monopoly. It is, on the contrary, a contract, by which the petitioners and the parties interested with them, agree to build for the Guatemalan Government a railroad, and are to receive for building such road $700,000 in bonds, a certain quantity of land, and the right of operating the road without charge for a period of ninety-nine years; and, as incidental to this, they are to be secured against certain competition, and be free from all taxes for a period of twenty-five years.

The petitioners aver that this guaranty against competition is of vital importance to them, and that without it they should not have undertaken the construction of this important work.

It appears, therefore, that the Guatemalan Government have directly violated two essential features of their contract—the agreement to receive their bonds at the custom-house, and the guaranty against competing roads within 15 leagues—and it is for these breaches of the contract that the petitioner now asks redress.

It is, of course, unnecessary for me to remind you that the Government of the United States has always refused to press the contractual claims of its citizens against foreign powers, unless it should appear that the citizens holding such claims were unduly discriminated against by the debtor government, or denied a judicial domestic remedy against it. Where these conditions do not exist the intervention of this Government in contractual claims by its citizens against foreign governments is limited to instructions to its diplomatic representatives abroad to exercise, unofficially, their personal good offices in recommending to the governments to which they are accredited a just and honorable settlement of the claims.

The present case appears to be one of the class in which that course may properly be adopted, and you are therefore instructed to present unofficially to the Guatemalan Government the grievances of which this petitioner complains.

In so doing you may take occasion to call the attention of the minister of foreign affairs to the great importance to Guatemala, as well as to the citizens of the United States whose interests are now directly involved, of a scrupulous observance of good faith in the performance of their contract. In the pursuance of an enlightened policy, Guatemala has sought to attract the capital and skill of citizens of other countries and particularly of the United States, to undertake the construction of works of public utility which may serve to open to the world her great but hitherto undeveloped resources. To accomplish this result, nothing is more essential than a feeling on the part of those who may be willing and able to undertake such tasks, of confidence in the exact integrity of the Guatemalan Government, and it is not too

much to say that the course of that Government in relation to the contract now under consideration contains nothing in it re-assuring for persons whom Guatemala may invite to enter into future engagements. It is vain to expect that the means of men and money required from other nations for the execution of similar works will ever be furnished in the face of such manifestations of disregard for contracts deliberately made.

It is not questioned that a government, when a monopoly becomes oppressive, may give public relief by the grant of privileges to an adverse interest. If, however, it should do so in such a way as to destroy private rights granted by its own express agreement, it would seem but just that compensation should be made to the parties thereby injured. And, it may be observed, that in the case now in question the exclusive privileges granted to the petitioners' assignors are not only conferred for a limited period, but are so guarded by provisions for prompt and effective service, at rates fixed in the contract itself, as to prevent the possibility of any oppression to the public.

It may be said that the petitioner under the contract ought to have submitted these questions to an arbitration. But the terms of article 25 can hardly be regarded as applying to a case like the present, which does not arise from any dispute as to the meaning of the contract or as to its application to a particular state of facts, but is based upon a clear repudiation and disregard by the Guatemalan Government of some of the essential features of the agreement. It seems plain that these questions are not such as can be disposed of by arbitration.

It may further be urged that the petitioner is bound by the restrictions embodied in and imposed by the terms of the President's approval of the contract of March 12, 1881. These conditions require that the enterprise shall always be national; that all persons interested in the road as stockholders, employés, or otherwise, shall be regarded as Guatemalans in regard to it; that they can never maintain the rights of foreigners in respect to the titles and transactions relating to this enterprise; and that no foreign diplomatic agent can ever intervene.

Provisions similar to this contained in the laws of certain Spanish-American Governments, or in contracts between those Governments and citizens of the United States, have in recent years been several times set up by those Governments as a bar to the intervention of this Government for the protection of the rights of its citizens. But the United States has uniformly refused to regard such provisions as annulling the relations existing between itself and its citizens or as extinguishing its obligation to exert its good offices in their behalf in the event of the invasion of their rights.

As instances of the Department's action in such matters may be mentioned its intervention in May, 1885, in behalf of certain Americans employed on Mexican railroads (see Wharton's Digest, II, 337) and its instructions of February 15, 1888, to Mr. Buck, United States minister to Peru, with reference to the case of Mr. John L. Thorndike, in which it took the position that "this Government can not admit that its citizens can, merely by making contracts with foreign powers, or by other methods not amounting to an act of expatriation or a deliberate abandonment of American citizenship, destroy their dependence upon it or its obligation to protect them in case of a denial of justice."

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 563.]

Mr. Robinson to Mr. Bayard.

WASHINGTON, D. C., *March* 21, 1888. (Received March 22.)

SIR: Sanford Robinson, as managing director of the Champerico and Northern Transportation Company of Guatemala, a corporation formed under the laws of the State of California, respectfully comes before the honorable Secretary to complain of the unlawful acts of the Government of the Republic of Guatemala, hereinafter set forth, and begs leave to submit the following statement, to wit:

On March 12, 1881, the Government of Guatemala made a concession to and entered into a contract with three American citizens, to wit: J. H. Lyman, D. P. Fenner, and T. B. Bunting, for the construction of a railroad from the port of Champerico, on the Pacific coast, to the town of Retalhuleu, situated about 30 miles in the interior. The most important points in the said contract were as follows:

Article 1. A franchise for ninety-nine years.

Article 2. A reservation during the term of twenty-five years of a strip of land on each side of the said railroad, 15 Spanish leagues (equal to about 39 English miles) in width, or a total of 78 miles, in which territory the Government agreed not to authorize during the said term the construction of any other railroad.

Article 3. A subvention of $700,000 in debentures, redeemable at the Champerico custom-house with 20 per cent. of the duties. Afterwards this was modified to 25 per cent. of the duties at the said custom-house (section 5 of the modifications), and afterwards, by special decree, the percentage was made 12 per cent. of the duties at all the custom-houses of the Republic.

Article 9. Exemption from duties on railroad material for construction and maintenance.

Articles 10 and 11. Exemption from stamp duties and taxation.

Other concessions of minor importance were made, not necessary to enumerate, and which up to date have been fulfilled on the part of the Government.

The two most important concessions on the part of the Government were the subsidy and the reservation of the 15 leagues on each side of the line. These are of the essence of the contract, without which the railroad would not have been constructed.

Article 14 extends the rights of the concessionaries to their legal representatives, and article 15 confers on them the right to form a company outside of the Republic for the purpose of constructing the said road.

The grantees assigned the contract to the aforesaid Champerico and Northern Transportation Company of Guatemala, and the said company in accordance with the original contract constructed the said railroad, expending a large sum of money in the work. The road was by decree of the executive duly accepted on October 4, 1884, as having been constructed in compliance with the contract.

The debentures were duly issued by the Government in "bonos" (bonds) to the amount of $700,000; each bono specifying on its face the object of its issue, and these bonos became at once receivable at the custom-houses of the Republic for 12 per cent. of the duties. Here, however, commenced the acts of bad faith on the part of the Government. It issued "documents," so-called, to merchants in exchange for advances of money made to the Government, receivable for duties; these documents bearing on their face the provision that they were not subject to the necessity of paying 12 per cent. of the duties in bonos of the railroad company. In consequence of this the company received up to the time of the suspension of payments of its bonos not over 6 per cent. of the duties.

The process of redemption, however, went on until July 31, 1885, when the Government, by formal decree, suspended payment of the "bonos" for the term of one year, failing, however, at the end of the year to resume payment, and from the said 31st day of July, 1885, none of them have been redeemed. Up to that date about $295,000 had been redeemed, leaving on hand about $441,000. At the expiration of the year of suspension the Government organized a "syndicate of the public debt," its duties being to collect 50 per cent. of the maritime revenue, and devote the proceeds to the payment of interest on the debt, at varying rates, ranging from 12 per cent. down to 6 per cent, the "bonos" of the Champerico Railroad being entitled to the lowest rate. After payment of the interest any surplus in each year was to be devoted to payment of principal.

Under this law the Champerico Company received three months' interest, from the 1st day of January, 1887, to the 1st day of April of the same year. Your petitioner, acting for the company, having no other resource, was obliged to accept the forced regulation of the Government, but did so under protest, reserving all the right of the company under the original contract, in case of the failure on the part of the Government to carry out the new arrangement. After the payment of the first three months' interest the syndicate continued to collect its proportion of the customs duties until the 26th day of June, 1887, the second installment of interest being due

on the 30th of June. On the 26th of June the President declared himself dictator, and on the 27th of June, by decree, abolished the syndicate and seized the funds in its hands. Your petitioner immediately made a demand for the amount due the company, claiming that the funds were held by the syndicate in trust, and on the 4th day of July following the treasury paid the three months' interest due to the company, but it held and still holds the surplus available for payment of principal. Since that time no payments whatever have been made.

During the suspension of payments the Government has made other contracts for the construction of railroads, with subventions. Amongst these one was made with a Spaniard, named Fernandez, for the construction of a railroad from Antigua to Palin, with a subsidy of Government bonds receivable for duties in the custom-houses. Fernandez made a pretense of grading a portion of the road, and then, receiving the bonds for that portion, abandoned the work with the consent of the Government. The bonds, however, have always been received at the custom-houses, and are now nearly or all canceled, although those of the company are not received. Other contracts have since been made with large subventions from the Government. The above-mentioned acts of bad faith on the part of the Guatemala Government were but the beginning and led up to the last attack on the company, one so flagrant and so ruinous in its consequences as to force the company to take whatever measures it can to save itself from the complete ruin of the enterprise.

On December 15, 1887, the Government, against the earnest and formal protests of your petitioner, made a contract with J. L. Bueron & Co. for the construction of a railroad from Quezaltenango to the port of Ocos. Ocos is a small and new port, situated about 7½ Spanish leagues to the west of the port of Champerico. This Ocos road is to run lengthwise through the coffee districts of Costa Grande and Costa Cuca; then to turn towards the coast and run to the said port of Ocos. These districts supply nearly all the traffic of the Champerico road, and for that traffic the road was built. For 30 miles or more this new road will run within the 15-league strip on the westerly side of the Champerico road and take all its trade. The result of the construction of this road will be simply the complete ruin of the property of the Champerico Company.

It is well to state here that some time before the Bueron contract was heard of your petitioner had, encouraged and urged by the members of the Government, made surveys for an extension of the Champerico road through the same country covered by the Bueron road, and had formally applied for a concession asking for no subvention or aid except the right of way.

After making this proposition your petitioner was unable to get any action on it and was suddenly surprised by discovering that the Government had made a contract with Bueron for a road covering the same ground and giving him besides a large subsidy. In opposing this contract, which your petitioner did most strenuously in communications, protests, and personal interviews, he was aided strongly by the United States minister, the Hon. Henry C. Hall, who, unofficially, made every endeavor to prevent the carrying out of the threatened contract. As, however, he acted only unofficially, simply using his good offices in behalf of the company, the Guatemala Government paid no attention to him.

Mr. Hall has informed your petitioner that he has fully and minutely reported the whole transaction to the Department of State.

The statements herein contained can, therefore, be fully verified by his reports.

In company with Mr. Hall, your petitioner had several interviews with the minister of foreign relations, Don Lorenzo Montufar, and was assured by him that in the face of the contract with the company none such as contemplated could be made with Bueron. In the whole affair your petitioner feels assured that Mr. Montufar acted in good faith, and that he would have prevented the consummation of the Bueron contract if he had had the power. The President conceded all the arguments of your petitioner and gave him to understand that the contract would not meet his approval. Before the final approval of the contract by the President, Mr. Montufar submitted the whole question at issue to Mr. E. Rockstroh, a competent and scientific man, for many years in charge of one of the Government institutions of learning, and for some years past engaged in making, in company with Prof. Miles Rock, of Washington, the survey for the boundary-line between Mexico and Guatemala. The points on which he was asked to report were: (1) The meaning of article 2 of the contract; and (2) the distance from the Champerico road to the contemplated Ocos road.

On both points Mr. Rockstroh, in a report dated November 19, 1887, decided against the right of the Government to make the Buerron contract.

In face of this report of their own expert, appointed by themselves, the President approved the Bueron contract, it being published as a law in the Official Gazette on December 15, 1887.

Your petitioner further states that he was refused a sight of the Bueron contract, until it was published, after approval of the President, in the Official Gazette of the Government.

The above history will show the honorable Secretary that the Government, by promises, having induced the Champerico Company to construct the railroad, commenced, as soon as it was completed, a consistent course of violation of the contract, ending in the Bueron concession, a deliberate and willful attempt to ruin the enterprise. This last act is one equivalent to confiscation of its property, for the Government might as well seize the road itself as to take away its traffic, a traffic they had agreed to protect.

The 15-league clause was so important that the construction of the road would never have been undertaken without it. There was a practically fixed amount of business. The building of the road brought no new business. The road simply hauled by steam-power what had hitherto been hauled by oxen. With a fixed amount of traffic limited in quantity no one would have invested money in it without an allowed tariff sufficient to yield a proper revenue and exemption from competition for a reasonable term of years.

Except the questions above stated no disputes have occurred between the Government and the company. The Government has never claimed, nor does it now claim, that the company has in any way violated any part of its contract.

In consequence of this last act of oppression and violation of contract on the part of the Guatemala Government, the company already finds itself seriously damaged. Negotiations which have been pending for a sale of the company's road have been stopped, and the stock of the company has been rendered practically valueless.

The Champerico Company is not the first American enterprise that has suffered at the hands of the Guatemala Government, nor will it be the last, unless the said Government can be brought in some way to see the error of its ways. The company is powerless in Guatemala; it has no tribunal to appeal to; it has no resource whatever except in the mediation of the United States Government. Your petitioner believes that such mediation would be effectual, not only in protecting the company from the present attack, but in relieving it from future ones, as well as tending to prevent attacks on other American enterprises. It is with regret that the company finds itself forced to ask this intervention, but it is compelled by its necessities to do so. Wherefore, in view of all the facts herein set forth, your petitioner, in the name of the Champerico and Northern Transportation Company of Guatemala, now respectfully asks the aid and intervention of the Department of State, in order to procure from the Guatemala Government a strict compliance with the terms of the contract made with Lyman, Fenner and Bunting, and, therefore, prays that the Department will take such steps as it may deem necessary in the premises to secure an abrogation of the Buerron contract, and prevent the threatened spoliation and practical confiscation of the company's property.

Your petitioner respectfully refers to the following documents herewith submitted:

Copy and translation of Lyman, Fenner and Bunting contract.

Translation of decree accepting the Champerico road.

Copy and translation of the Buerron contract.

Copy and translation of the report of E. Rockstroh.

Certified copy of articles of incorporation of the Champerico and Northern Transportation Company of Guatemala.

U. S. Coast Survey map and official map of Guatemala, showing location of the ports of Ocos and Champerico, the line of the Champerico Railroad, and approximate line of the proposed Ocos Railroad, the position of the coffee-producing districts, and the 15-league lines.

And your petitioner will ever pray, etc.

SANFORD ROBINSON.
Managing Director.

WASHINGTON, D. C., *March* 21, 1888.

Sanford Robinson, being duly sworn, deposes and says: That he is forty-one years of age; that he was born in North Yarmouth, in the State of Maine; that his residence is in the city of San Francisco, State of California, but that he is at present residing temporarily in the city of Guatemala, in the Republic of Guatemala; that he is the managing director of the Champerico and Northern Transportation Company, of Guatemala, a corporation formed under the laws of the State of California, owning property in the said Republic of Guatemala; that he is a stockholder in the said corporation; that the statements made by him in the above petition are true, except as to those matters stated on information and belief, and as to those matters he believes them to be true; that the documents filed with the said petition and referred to therein are correct copies of the originals, and that the translations are true and correct; that the line of the Champerico Railroad is correctly laid down on the maps filed with said petition, and that the acts referred to and complained of in the foregoing petition took place during the time that the deponent has been acting as

managing director of the said Champerico and Northern Transportation Company, and while he was residing in Guatemala; that is to say, between the 31st day of July, 1885, and the 1st day of January, 1888.

SANFORD ROBINSON.

Subscribed and sworn to before me this 22d day of March, A. D. 1888.
[SEAL.]
EMMA M. GILLETT,
Notary Public.

No. 104.

Mr. Hall to Mr. Bayard.

No. 793.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, March 27, 1888. (Received April 16.)

SIR: With my dispatch No. 684 of the 12th of July, 1887, I transmitted a copy and translation of a decree of the Guatemalan Government, extending the rebate in import duties, so far as the contract with the Marquis de Campo would permit, to all regular lines of vessels.

The Central American Line of the Marquis de Campo has continued to enjoy, up to the present, a rebate of 3 per centum in import duties, and the regular American lines plying between Panama, ports of Central America, and San Francisco a rebate of 2.9 per cent. The withdrawal of the Marquis de Campo's steamers from these waters is now announced by his agent in Guatemala, and the Government, in consequence, has issued a decree, on the 24th instant, a copy and translation of which are inclosed, withdrawing all rebates in duties, so that vessels of all nationalities are placed, as formerly, on the same equal footing as regards the payment of customs duties on imports.

The Government of Salvador has already rescinded an executive order to the same effect of the Guatemalan decree of the 11th July, 1887, as I had the honor to report to the Department by my dispatch No. 773 of the 10th ultimo.

I have, etc.

HENRY C. HALL.

[Inclosure in No. 793.—Translation.—Extract from "El Guatemalteco" of the 27th March, 1888.—Revocation of the decree of July 11, 1887.]

DEPARTMENT OF PUBLIC WORKS,
PALACE OF THE EXECUTIVE POWER,
Guatemala, March 24, 1888.

The representative of the Spanish Central American Line of mail steamers of the Marquis de Campo having manifested that the enterprise has been under the necessity of definitely withdrawing its vessels; considering that the benefits conceded to other companies by the rebate in import duties conformably with the decree of the 11th July, 1887, with the view of establishing a just equilibrium which would not exclude competition and would favor the interests of the country, and in view of the announced declaration of the above-mentioned line, the motive for conceding such privileges having ceased to exist, and the re-establishment of uniformity in import duties having become indispensable, the President decrees to abrogate all the executive orders issued in favor of the steam-ship companies plying regularly to our ports on the Pacific and relating to the rebate in customs duties upon merchandise imported by their vessels.

Let it be communicated.

Signed by the President.

BARRUTIA,
Secretary of Public Works.

No. 105.

Mr. Hall to Mr. Bayard.

No. 798.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, April 3, 1888. (Received April 25.)

SIR: Mr. Concepcion Pinto, a naturalized citizen of the United States, and for many years a resident of San Francisco, Cal., has addressed me a communication, written by his advocate, asking to be informed whether the Governments of the United States and Guatemala hold that certain parts of the treaty of March 3, 1849, relative to peace and friendship are still in force, as stipulated in its Article XXXIII, and in such case, whether Article XII, which provides that the citizens of both contracting parties shall enjoy the same rights in their trials at law which are enjoyed by natives or citizens, may not also be considered to be in force. A translation of Mr. Pinto's communication is inclosed herewith.

The treaty referred to was terminated by Guatemala in 1874, and so far as I can ascertain, without any reference having been made by either party to the last clause of paragraph 1, of Article XXXIII, as follows:

> That in all those parts which relate to peace and friendship it shall be perpetually binding on both powers.

Mr. Pinto's object in making this inquiry is the following: He has brought a suit in the courts of this city against the International Bank of Guatemala, and on the ground that he is a foreigner the bank's advocate has petitioned the court that Mr. Pinto shall be required to give security in the sum of $100,000; for this requirement, it is said, no law exists, and no such security was ever required of a citizen of the country.

Article XII of the treaty of 1849 stipulates substantially that the citizens of the contracting parties shall enjoy the same rights in their trials at law that are enjoyed by natives or citizens.

I have forwarded a copy of Mr. Pinto's communication to the minister for foreign affairs of Guatemala with a note, of which I inclose a copy.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 798.—Translation.]

Mr. Pinto to Mr. Hall.

GUATEMALA, *24th March*, 1888.

SIR: Having several claims pending before the tribunals of this Republic and others to present, I have the honor to address you, requesting you to be pleased to inform me whether the Governments of the United States and of this Republic hold Article XII of the treaty of the 3d of March, 1849, to be binding. In this article it is stipulated that the citizens of the contracting parties in each country shall enjoy the same rights in their trials at law that are enjoyed by the natives or citizens.

It is said that notice of its intention to terminate the treaty was given by the Government of Guatemala in the month of September, 1873, but as Article XXXIII, paragraph 1, provides that such notice shall apply only to whatsoever relates to commerce and navigation, and that whatsoever relates to peace and friendship shall be perpetually binding on both nations, it appears conclusive that Article XII subsists in all its force and vigor inasmuch as it does not relate to navigation nor to commerce, but to peace and friendship, assimilating Guatemalan citizens in the United States

and citizens of the United States in Guatemala with the citizens of the one and the other country in all that relates to their rights in the courts of justice.

Begging that you will be pleased to inform me whether you consider the same to be binding, I have the pleasure to subscribe myself,

Your obedient servant,

CONCEPCION PINTO.

[Inclosure 2 in No. 798.]

Mr. Hall to Señor Barrutia.

LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Guatemala, April 3, 1888.

MR. MINISTER: Mr. Concepcion Pinto, a citizen of the United States, has addressed a communication to this legation requesting to be informed whether the Governments of the United States and Guatemala hold that those parts of the treaty of the 3d of March, 1849, between the two countries, relative to peace and friendship, are still in force as stipulated in its Article XXXIII, and in such case whether Article XII, which stipulates that the citizens of both contracting parties in each country shall enjoy the same rights in their trials at law which are enjoyed by natives or citizens is not also in force.

The treaty referred to was terminated by Guatemala in 1873, and so far as I have been able to ascertain, without any reference having been made concerning those points which relate to peace and friendship, which the treaty itself stipulates shall be perpetual.

I have forwarded a copy of Mr. Pinto's note to my Government and have asked for its instructions, but in the meantime it would be reasonable to expect that unless there are special laws which deprive citizens of the United States and other foreigners of any of the privileges enjoyed by native citizens in the tribunals of Guatemala, the courtesies at least due from one friendly nation to another should entitle them to the same consideration. I am very sure that no Guatemalan could be deprived of any privilege in the courts of the United States enjoyed by natives or citizens of the country.

With renewed assurance of my highest, etc.,

HENRY C. HALL.

No. 106.

Mr. Hall to Mr. Bayard.

No. 800.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, April 4, 1888. (Received April 25.)

SIR: In continuation of my dispatch No. 797, of the 2d instant, I have the honor to inclose a copy of a personal note of this date from Señor Magliano, chargé d'affaires of Italy, in Central America, announcing the approval of the protocol, signed by himself and the minister for foreign affairs of Salvador, through my mediation, under your instructions, in January last. The approval is conditional with the rebate of the one-third of the sum agreed upon, which, as has been shown, belongs to Ex-President Zaldivar. Señor Magliano has already assented to this rebate.

I respectfully invite your attention to Señor Magliano's note, wherein he expresses his high appreciation of the great service that his Government has received in the amicable settlement of this serious and delicate question with Salvador, which has been effected through the good offices I was able to render to both parties while carrying out your telegraphic instruction of the 5th of January last past and your No. 535, of the 11th of the same month.

I have, etc.,

HENRY C. HALL.

[Inclosure in No. 800.]

Señor Magliano to Mr. Hall.

ITALIAN LEGATION,
Guatemala, April 4, 1888.

SIR: Yesterday I received the following telegram from Señor Delgado, minister for foreign affairs of Salvador:

"Our protocol of January 24 has been approved by Congress, with the sole condition that the amount to be paid shall be $180,000."

In giving your excellency this information I consider it my duty to again assure you of my sincere gratitude and appreciation of your efficacious aid in bringing to an amicable conclusion the serious and delicate question that existed between my Government and that of Salvador with reference to the claim of Dr. Sagrini.

Your personal intervention, requested by the Government of Salvador, authorized by the honorable the Secretary of State at Washington, accepted by the cabinet of Rome, and most gladly welcomed by me, could not but succeed to the advantage of both parties, inasmuch as your action, undertaken with so much tact, prudence, and ability, was shown to be inspired solely by an impartial feeling of justice and equity, as also by the desire to render a service to two friendly Governments, and with perfect disinterestedness.

My Government, being informed by me of what your excellency has done in this matter, will certainly not fail to acquaint you with a due manifestation of their gratitude; in the mean time,

I have the honor, etc.,

ROBERTO MAGLIANO.

No. 107.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 801.] LEGATION OF THE UNITED STATES,
Guatemala, April 5, 1888. (Received April 25.)

SIR: With further reference to your instruction No. 554, of the 27th of February last, and in continuation of my despatch No. 788, of the 16th ultimo, I have the honor to inclose copies and translations of correspondence with the minister for foreign affairs of Guatemala relative to the disquietude prevailing in Nicaragua by reason of the rumors that the plan of a consolidation of the Central American States under one Government, undertaken by General Barrios in 1885 and signally failed, is about to be revived by his successor, General Barillas.

On the 17th ultimo I addressed the minister a note in consonance with the instruction. He replied at length on the 28th, declaring the rumors prevalent in Nicaragua to be unfounded, and giving their supposed origin; he declares, also, that Guatemala contemplates a restoration of the Central American Union by *legitimate* or *lawful means only;* he refers to the treaty of the 16th of February, 1887, as having been concluded for the same object. But in the same paragraph he states, substantially:

> That at any time and under whatever circumstances, however difficult, whenever on the part of *one* or more of the Central American Republics the idea of a union shall be developed, the people and Government of Guatemala, in use of their undoubted autonomy, will always be disposed to make use, by lawful means, of whatever may conduce to the national reconstruction of Central America.

As this paragraph appears to be ambiguous, I addressed him a second note, stating that a frank disclaimer that any other means than those provided by the treaty of the 16th of February, 1887, are contemplated would probably allay all doubts as to the intentions of his Government.

I am very confident that no such movement as has been feared in

Nicaragua is contemplated, nor have I any apprehension that under any circumstances will General Barillas resort to coercive means for the purpose of carrying out an enterprise which, after the failure of 1885, would hardly be considered other than as utterly impracticable.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 801.]

Mr. Hall to Señor Barrutia.

GUATEMALA, *March* 17, 1888.

SIR: I am instructed by the honorable Secretary of State of the United States to apprize your excellency's Government that he has learned that much disquietude is felt in Nicaragua by reason of the rumors that a plan of a consolidation of the Central American Republics which was undertaken by General Barrios three years ago is about to be renewed by the present Government of Guatemala. On that occasion my Government expressed its strong and decided disapproval of any steps of coercion or constraint by one or more of the Central American States toward the others with the view to such consolidation; this disapproval was made known by me to your excellency's Government soon after the promulgation of the union proclamation of President Barrios in 1885.

The circumstances under which his excellency General Barillas assumed the reins of the Government after the death of General Barrios, gave hopes of permanent tranquillity in Guatemala and of its good relationship with the other States of Central America. My Government has hitherto entertained the same hope as well as its belief, and is by no means disposed to abandon it, but, under the circumstances of the rumors which have caused so much disquietude in Nicaragua, it is of paramount importance, and it would also be very gratifying to my Government, to have that hope and belief confirmed by receiving from the Government of Guatemala its assurance of the absolute groundlessness of these rumors. The importance of such assurance will be shown hereinafter.

The great interest expressed in the proposed construction of the interoceanic canal through Nicaragua by citizens of the United States, under an act of incorporation granted according to the laws of the United States, and the apprehension naturally felt for the security of the vast capital necessary for the accomplishment of such a work under effective guaranties of stability and order, will suffice to show to the Government of Guatemala how important to an enterprise of that magnitude already inaugurated are the assurances asked for; that there shall be no ill-counseled plans of domination or control to cast a doubt upon the capacity of the Central American Republics to maintain orderly and local self-government and to observe relations of good will towards each other.

While my Government would sympathize with any movement having for its object a voluntary, harmonious, and peaceful union of the five Central American States, it would always strongly disapprove any attempt of coercive union upon whatever pretext. Until such a union can be realized my Government will favor their independent, tranquil, and harmonious continuance under the reign of constitutional law.

It requires but little argument to emphasize the feeling of disquietude and the grave results of unfriendliness which would be created if the capital and interests of citizens of the United States in Central America should be jeopardized by the ambitions of any of these Republics, and the paramount urgency of avoiding such a contingency by all available means.

My Government in instructing me to set forth to that of your excellency the foregoing frank and friendly statements, is fully persuaded that the Government of Guatemala will give such assurances as will effectively dissipate all doubts to which the reports from Nicaragua have given rise.

Renewing to your excellency, etc.,

HENRY C. HALL.

[Inclosure 2 in No. 801.—Translation.]

Señor Barrutia to Mr. Hall.

DEPARTMENT OF FOREIGN RELATIONS,
Guatemala, March 28, 1888.

MR. MINISTER: I have received and taken into attentive consideration your note of the 17th instant, in which, complying with the instructions of the honorable Secre-

tary of State of the United States, you are pleased to inform me that he has learned that much disquietude is felt in Nicaragua by reason of the rumors prevailing there that the plan of a consolidation of the union of the five Central American Republics is about to be revived by the present Government of Guatemala, and that on account of these rumors your Government has manifested its decided disapproval of any coercive step or of constraint on the part of one or more of the Central American States to carry out that plan; that your Government has entertained the hope that under the presidency of General Barillas tranquillity would prevail in Guatemala and good relations would be maintained with the other Central American States; but that in consequence of these rumors, which have caused disquietude in Nicaragua, it is important, and it would be satisfactory to your Government, to see that hope confirmed by receiving from my Government assurances that these rumors are unfounded; that the importance of such assurances is founded on the great interest manifested in the construction of the interoceanic canal through Nicaragua by citizens of the United States, and the natural apprehension felt for the security of the vast capital required for the accomplishment of such a work, already inaugurated; and finally that your Government would sympathize with a peaceful and harmonious union of the Central American States, at the same time disapprove of any plan to obtain it by coercive measures.

Duly appreciating the just desire of your Government to give confidence and security to its citizens in all that relates to the vast enterprise of the interoceanic canal through Nicaragua, I have the honor to reply to your note, in compliance with the special instructions of the President of the Republic.

It is frequently difficult, Mr. Minister, in any special or private affair, to reach definite and concrete conclusions when the facts are not defined, when no manifestations are even suggested of acts, real or supposed; when, finally, everything devolves upon the unsubstantial basis of rumors, whose origin is doubtful, whose object is unknown, and whose importance does not go beyond that of indefiniteness and vagueness.

Notwithstanding in the present case the rumors to which you refer are so unfounded that no effort is needed to destroy them, their falsity is proven by the very fact that my Government has taken no steps nor has it made any manifestations from which it can be in any way logically deduced that it entertains ambitious pretentions of domination. It would suffice to invoke your own respectable testimony as a resident of this capital, and able to observe political events closely, whether you have noticed any preparations of a hostile character against any Government or enterprise, or any political combination foreign to or contrary to the rights and common interests of the Central American peoples.

For several months past it has been notorious that these rumors proceed solely from Nicaragua, where they have been invented and sustained by a few emigrés enemies of the present political system of Guatemala, who, with the object of carrying out their revolutionary projects, promote all kinds of animosities against my Government, regardless of the means employed, however unpatriotic or calumnious they may be.

In this connection I beg to inform you that already, at the end of August of last year, our minister in Washington, Señor Francisco Lainfiesta, communicated to the honorable the Secretary of State the existence of such rumors, and at the same time gave assurances of their absolute falsity.

Be pleased then to receive in the sense of a guaranty for the legitimate interests of your fellow citizens the assurance that the rumors are entirely and maliciously false which have circulated and unfortunately have caused unusual disquietude in the neighboring sister Republic of Nicaragua, designated by nature to produce in her territory, by means of the interoceanic canal, and thanks to the capital and energy of the North American citizens, the greatest economic transformation in these sections of Central America, a transformation which my Government anxiously awaits, as one of the most efficient means for carrying into practice the national union of these Central American peoples upon a solid and stable basis. This was set forth by the legation of Guatemala in Washington, by a communication dated the 2d of September of last year, expressing the lively sympathy of Guatemala for the canal, and offering the co-operation of my Government for the removal of any difficulties which might arise in the accomplishment of that grand and transcendental work.

The foregoing, in the opinion of my Government, answers all the points of your dispatch relating to the assurances which your Government has a right to demand as regards the interests of its citizens which are linked with the great enterprise of a canal through Nicaragua, interests which, under any circumstances, and for the good of Central America, would be respected and placed under safeguards, as is due to every kind of foreign interest existing in these countries.

It remains for me to refer to the declarations of your Government in regard to its views upon the national reconstruction of Central America.

My Government would fail to recognize the importance of the announced declarations without responding thereto, and at the same time making, explicitly and honorably, frank manifestations in regard to the sentiments it entertains and the principles which have decided, and will hereafter determine its conduct.

Aside from the personal convictions which the President of the Republic and the persons who compose his cabinet entertain in regard to the loyalty and desirability of the Central American union, I should state, in response to your courteous and friendly frankness, that according to our constitution, article 2, the Guatemalan nation will always be ready to re-incorporate itself with the Central American nationality.

That for this great object a treaty was concluded in this capital on the 16th of February, 1887, and with the view to prepare for the national union. It was signed by the plenipotentiaries of the five Central American Republics, and has been ratified by the legislatures of a majority of them (Guatemala, Salvador, Honduras, and Costa Rica), and that at any time and under whatever circumstances, however difficult, whenever on the part of one or more of the Central American Republics the idea of a union should be developed, the people and Government of Guatemala, in use of their undoubted sovereignty, without egotism, and without any spirit of domination, will always be disposed to make use, within the limits of law, and by lawful means, of whatever in their judgment may conduce for the general and permanent good, to the effective national reconstruction of Central America.

I believe, Mr. Minister, that the foregoing, which I trust you will be pleased to communicate to your wise and enlightened Government, will dissipate the unfounded apprehensions to which these false rumors have given rise, and that at the same time the principles and aspirations which the political faith of the people and Government of Guatemala sustains will be established with frankness and dignity.

This occasion affords me the pleasure to renew, etc.,

SALVADOR BARRUTIA.

[Inclosure 3 in No. 801.]

Mr. Hall to Señor Barrutia

GUATEMALA, *March* 29, 1888.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's communication of yesterday's date in reply to mine of the 17th instant, in which, complying with the instructions of my Government, I informed your excellency of the prevalence of rumors in Nicaragua connected with the alleged intentions of the Government of Guatemala to revise the plan of a consolidation of the five Central American nationalities under one general government.

It will give me much pleasure to forward by next mail to the honorable the Secretary of State a copy and translation of this important communication, but I beg to be permitted to invite the attention of your excellency to some of its points which, without explanation, might give rise to erroneous impressions, or at least to uncertainties; I refer to the following paragraph relating to a re-incorporation of the Central American nationalities:

"Que con este gran propósito se celebró en esta Capital el Tratado de 16 de Febrero de 1887, encaminado á preparar la union nacional suscrito por Plenipotenciarios de las cinco Repúblicas Centro Americanas y ratificado por la mayoría de las legislaturas de dichas Repúblicas, y que en cualquiera epoca y en cualquiera circunstancias por dificiles que sean en que de parte de una ó mas repúblicas del centro surja el pensamiento de realizar la union, el pueblo y Gobierno de Guatemala, en uso de su autonomia incontestable, sin egoismo y sin espíritu de predominio, y sin atentar intereses locales ni extrangeros estarán siempre dispuestos á emplear dentro de los límites del derecho, los medios legítimos que á ser juicio conduzcan para bien comun y estable á la eféctua reconstruccion nacional de Centro América."

The treaty of the 16th of February, 1887, contemplates a restoration of the union of the Central American States by peaceful means only, but the latter part of the foregoing paragraph leaves a doubt as to whether under certain circumstances the Government of Guatemala might not be disposed to resort to coercive means. A frank disclaimer that the Government of Guatemala contemplates a restoration of the union of these States, save solely in the manner provided by the above mentioned treaty, and that under no circumstances will the Government of Guatemala attempt to constrain by force of arms any of the other States to accept the union against their will, would probably allay all doubts and suspicions as to the praiseworthy intentions of your excellency's Government in the premises.

Renewing to your excellency the assurances, etc.,

HENRY C. HALL.

[Inclosure 4 in No. 801.—Translation.]

Señor Barrutia to Mr. Hall.

DEPARTMENT OF FOREIGN RELATIONS,
Guatemala, April 5, 1888.

MR. MINISTER: I have the pleasure to refer to your esteemed communication of the 29th ultimo, acknowledging the receipt of mine of the previous day, relating to the false rumors current in Nicaragua that the Government of Guatemala proposed to renew by coercive means the project of the union of Central America, and calling my attention to the fact that the ideas expressed in the ante-penultimate paragraph of my aforesaid communication might, without some explanation, give rise to erroneous interpretations or to uncertainties as to the attitude of Guatemala in the matter referred to.

Permit me, Mr. Minister, to state that in the paragraph referred to the opinion of my Government in regard to this matter of Central American interest is clearly and definitely expressed, and, expressed as it is, I believe it will suffice to dissipate every doubt which might exist or arise by reason of the false rumors to which I have referred in my first communication, and which I believe I have demonstrated to be destitute of all foundation. I have assured your excellency, and I have the pleasure to repeat it, that my Government would employ for the consummation of the long desired Central American union the legitimate means to be found within the limits of the law (derecho)* and my Government hopes that the Government of your excellency, upon being informed of the friendly and frank manifestations which have been addressed to it on the subject, will accept them at their true value as a guaranty to the American interests in the Nicaragua canal enterprise and will at the same time be convinced of the rectitude of the intentions of the Government of this Republic.

In stating to your excellency the foregoing, which is all that my Government can say in reply, it is a pleasure to reiterate to your excellency, etc.

SALVADOR BARRUTIA.

No. 108.

Mr. Bayard to Mr. Hosmer.

No. 571.] DEPARTMENT OF STATE,
Washington, April 27, 1888.

SIR: In connection with my No. 569, of the 18th instant, I herewith transmit for your information and files a copy of a letter from the Secretary of the Treasury, dated the 24th instant, and of my reply thereto, dated the 27th, explaining that the withdrawal of the Marquis de Campo steamers, as reported in Mr. Hall's No. 793, of the 27th ultimo, related exclusively to the Republic of Guatemala.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 571.]

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT,
April 24, 1888.

SIR: I have the honor to acknowledge the receipt of your letter, dated the 18th instant, transmitting a copy of dispatch No. 793, of the 27th ultimo, from the United States minister at Guatemala City, relative to a revocation by the Guatemalan Government of its decree of July 11, 1887, placing regular lines of vessels entering in that country on the same footing as the vessels of the Spanish Central Line of steamers.

The minister reports that the withdrawal of the Marquis de Campo's steamers "from these waters" is now announced by his agent at Guatemala, and you remark that

there appears to be no discrimination in the Pacific ports of Central America in favor of any foreign flag.

In the minister's dispatch of December 10, 1886, he stated that Costa Rica conceded a rebate of customs duties on all merchandise imported into its Pacific ports in the steamers of the Spanish Central American Line, plying between Panama and San Francisco, and in your communication of the 6th of February last you expressed the opinion that the discrimination then made by Costa Rica was violative of the treaty of 1851, and would justify this Government in regarding its provisions as temporarily suspended by Costa Rica.

This Department does not recall that notice has been given of any formal abrogation of this concession, nor is it understood whether the minister intended to say, in dispatch 793, that the vessels of the Spanish Central Line have been withdrawn from the waters of Costa Rica.

As instructions have been given to the collectors of customs in accordance with the suggestion in your letter of February 6, above cited, to apply to importations in Costa Rican vessels the provisions of section 2502, Revised Statutes, imposing additional duties, it is essential that full information should be received by this Department of any facts that may warrant a revocation of the instructions.

If, in your opinion Article, VI., of the treaty should now be considered as in force, and not temporarily suspended, I will thank you to so advise me.

Respectfully, yours,

C. S. FAIRCHILD,
Secretary.

[Inclosure 2 in No. 571.]

Mr. Bayard to Mr. Fairchild.

DEPARTMENT OF STATE,
Washington, April 27, 1888.

SIR: I have the honor to acknowledge receipt of your letter of the 24th instant and to say that from Mr. Hall's dispatch No. 793, of March 27 last, it is evident that the withdrawal of the Marquis de Campo steamers, otherwise known as the Spanish Central American Line of steamers, was a withdrawal simply from Guatemalan waters. It was in consequence of the first decree of that Government extending the rebate on imports, so far as the contract with the Marquis de Campo would permit, to all regular lines of vessels. The withdrawal having been announced by the agent of that company in Guatemala, a decree of March 24, 1888, was issued withdrawing all rebate in duties and placing all nationalities on the same footing All this, however, appears to relate to Guatemala alone, and the term withdrawal "from these waters" seems to have been used by Mr. Hall as applying to the waters of that republic.

Nothing has been received from Mr. Hall on this subject, so far as Costa Rica is concerned, since his No 775 of February 16, 1888, a copy of which was sent to you on the 16th ultimo. That dispatch showed that Costa Rica maintained the discrimination in favor of the Spanish Line.

I have, etc.,

T. F. BAYARD.

No. 109.

Mr. Bayard to Mr. Hosmer.

No. 574.] DEPARTMENT OF STATE,
Washington, April 30, 1888.

SIR: The Department has received Mr. Hall's No. 798, of 3d instant, communicating an inquiry of Mr. C. Pinto, an American citizen (who has been asked to give a large bond in connection with a suit he has brought against a bank in Guatemala), whether Article XII of our treaty of 1849 with that Government is not still in force, so that no discrimination can be made against him in respect to the bringing of this suit, for the reason he is not a citizen of Guatemala.

I find upon examination of the records that on the 12th of September,

1873, Señor Marco A. Soto, Guatemalan minister of foreign affairs, addressed a note to Mr. Williamson, United States minister to Guatemala, notifying him that on the 28th of the preceding month of August, the President of the Republic, Barrios, had directed the termination of all the treaties of Guatemala with foreign countries in order that new treaties might be made more suited to the conditions of the times. To this end the minister for foreign affairs said he gave notice to Mr. Williamson that the treaty of 1849 would be regarded as denounced from and after the date of the receipt of such notice at Washington.

Not being clear as to the meaning of this, Mr. Williamson, on the 16th of September, 1873, called the attention of the minister of foreign affairs to the fact that by the thirty-third article of the treaty it would continue in full force and effect for twelve months after the date of notice.

On the 30th of October, 1873, Señor Vicente Dardon, Guatemalan minister at this capital, wrote to Mr. Fish, saying that the Government of Guatemala, under date of 12th September, had announced to Mr. Williamson "its desire for the annulment of the treaty concluded between Guatemala and this Republic [the United States] March 3, 1849, in order that the term of one year might commence to run, which for such annulment is fixed by Article XXXIII of the said treaty."

Mr. Fish, replying on the 15th of November, 1873, said he had received the information referred to from Mr. Williamson, "who was advised that consequently the treaty would terminate on the 4th of November, 1874; that is to say, one year from the receipt of the notice by this Government."

This is all there is on the subject, and it discloses nothing decisive as to the non-termination of those parts of the treaty relating to peace and friendship. It may however be argued that as notice was given pursuant to the provisions of Article XXXIII of the treaty, so far as time was concerned, and those provisions were thus recognized in the denunciation of the treaty, those parts relating to peace and friendship are to be regarded as still in force.

In determining what are the parts relating to peace and friendship as contradistinguished from those relating to commerce and navigation, the treaty furnishes no test; we must therefore look to the substance of the various provisions to find under which head they fall.

The first article of the treaty provides that there shall be perfect, firm, and inviolable peace and friendship between the contracting parties.

As to this part there can be no doubt. But in international relations, peace and friendship have certain incidents, which constitute the comity of nations as distinguished from rights of commerce; that is to say, of buying, selling, and trading. One of those incidents is the right of resort to the courts for the protection of persons and property. In regard to this, Article XII, of the treaty of 1849 between the United States and Guatemala, provides as follows:

> Both the contracting parties promise and engage formally to give their special protection to the persons and property of the citizens of each other of all occupations who may be in the territories subject to the jurisdiction of the one or of 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 and citizens of the country in which they may be, for which they may employ in defense of their rights such advocates, solicitors, notaries, agents, and factors as they may judge proper in all their trials at law; and such citizens or agents shall have free opportunity to be present at the decisions and sentences of the tribunals in all cases which may concern them and likewise at the taking of all examinations and evidence which may be exhibited in the said trials.

Another provision, that may fairly be classed under the head of peace and friendship, may be found in Article XIII of the treaty, by which it is—

Agreed that the most perfect and entire security of conscience shall be enjoyed by the citizens of both the contracting parties in the countries subject to the jurisdiction of the one and the other, without their being liable to be disturbed or molested on account of their religious belief, so long as they respect the laws and established usages of the country.

In the same article we find a still stronger provision, as affecting peace and friendship, to the effect that—

The bodies of the citizens of one of the contracting parties who may die in the territories of the other, shall be buried in the usual burying grounds, or in other decent and suitable places, and shall be protected from violation or disturbance.

Truly this is not a provision of commerce or of navigation.

There can be nothing unfair to Guatemala in treating these provisions as in force, since they continue to be binding on Guatemala, they are equally and reciprocally obligatory on the United States.

You will take an early occasion to impress these views on the Guatemalan secretary for foreign affairs, informing him that we hold that the indicated treaty provisions relating to peace and friendship were not terminable, and have not been terminated by the notice given by Guatemala in 1873.

I am, etc.,

T. F. BAYARD.

No. 110.

Mr. Bayard to Mr. Hosmer.

No. 575.] DEPARTMENT OF STATE,
Washington, May 1, 1888.

SIR: I transmit for your information a copy of a letter from the secretary of the Pacific Mail Steam-ship Company, and of the Department's reply thereto, dated the 26th ultimo and 1st instant, respectively, touching the precise situation of Costa Rica in the matter of the discrimination in favor of the Spanish Central American line of steamers.

You will accordingly ascertain whether the de Campo steamers have been withdrawn between Costa Rica and San Francisco; and if so, whether the obnoxious legislation remains unrepealed.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 575.]

Mr. Lane to Mr. Bayard

NEW YORK, *April* 26, 1888.

SIR: I have the honor to acknowledge the receipt of letter of the Assistant Secretary, Mr. G. L. Rives, dated 18th instant, together with copy of decree of the Guatemalan Government referred to therein, for which we thank you.

We notice that Mr. Rives goes on to say that, "There now appears to be no discrimination in the Pacific ports of Central America in favor of any foreign flag."

Referring to our previous requests for the exaction of extra duties on cargo proceeding from Costa Rican ports to San Francisco, concerning which we have not as yet been advised that the Treasury Department has taken any action, our understanding of the situation is that if the Del Campo steamers were still running between

Costa Rica and San Francisco the discrimination against American vessels would still exist.

As, however, they have been driven off the coast by their inability to compete with this company's steamers (irrespective of any assistance afforded us by the Treasury Department, such as that which was solicited by us) we do not understand that any final withdrawal of the discrimination in question has been enacted by the Government of Costa Rica.

If so, we would be obliged if the Department would kindly advise us to that effect.

Respectfully, etc.,

W. H. LANE,
Secretary.

[Inclosure 2 in No. 575.]

Mr. Rives to Mr. Lane.

DEPARTMENT OF STATE,
Washington, May 1, 1888.

SIR: In reply to your letter of the 26th ultimo, I desire to say that the Department's latest information in the matter of the discrimination by Costa Rica is in Mr. Henry C. Hall's dispatch, No. 775, of February 16, 1888, which showed that that Government still maintained the discrimination in favor of the Spanish Central American Line, otherwise known as the Marquis de Campo steamers.

In connection with Mr. Hall's dispatch, forwarding the Guatemalan decree of March 24, 1888, the Secretary of the Treasury asked for further and more precise information as to the position of Costa Rica in this matter, saying that instructions had heretofore been issued to the collector of customs at San Francisco to apply the provisions of section 2502 of the Revised Statutes to cargoes coming to that port from Costa Rica in the Spanish steamers. Mr. Fairchild was advised that Mr. Hall's No. 775 contained the latest information in the Department's possession.

Mr. Hosmer, the chargé d'affaires *ad interim* of the United States at Guatemala City, will be directed to ascertain whether the De Campo steamers have been withdrawn between Costa Rica and San Francisco; and, if so, whether the obnoxious legislation remains unrepealed.

I am, etc.,

G. L. RIVES,
Assistant Secretary.

No. 111.

Mr. Hosmer to Mr. Bayard.

No. 809.] LEGATION OF THE UNITED STATES,
IN CENTRAL AMERICA,
Guatemala, May 9, 1888. (Received May 28.)

SIR: I have the honor to acknowledge the receipt of your instructions numbered 563, of March 27, 1888, inclosing a copy of the memorial of Mr. Sanford Robinson, managing director of the Champerico and Northern Transportation Company, addressed to you in relation to an alleged violation of the contract made by the Government of Guatemala with that railroad by having granted a contract to Messrs. J. L. Bueron and others, the execution of which would tend towards the ruin of the traffic of the existing corporation.

In obedience to your instructions, as above, I addressed a note to the minister of foreign affairs of this Republic on the 26th of April ultimo, a copy of which I now have the honor to inclose to you, and in which I recall the attention of the Government of Guatemala to the complaint and protest which formed the basis of the memorial of Mr. Robinson to you, and the evident error into which that Government had been led in making the new contract objected to, by a misapprehension as to the actual distance between the ports of Champerico and Ocos, and referring to the settlement of the question of distance by that Government's

own expert engineer, Mr. Rockstroh, concluding that upon a reconsideration of the case, in the light of a correct measurement as to relative distance, the Government will cause the opposing contract to be rescinded.

As yet I have received no written reply to my note, the delay having been explained by the minister for foreign affairs, in a recent personal interview, as owing to his waiting for a translation of my note into the Spanish language

It seemed desirable that I should proceed at first in the manner I have done, in order to afford the Government the opportunity of correcting an error which might have occurred through a miscalculation as to distance, and not with the purpose of dishonoring its obligation under a contract based on good faith between both parties, and in which the question of a reserved right of distance on either side of the line was so important a factor, and which might be regarded indeed as the essence of the contract.

The reply of the minister for foreign affairs may open some other question relating to the contract; in which case I am amply fortified by your instructions, which so thoroughly cover every possible point that may be discussed, and which I shall strictly follow.

Meantime I have thought it proper to advise you of the unofficial action I have taken, as expressed in my note to the Guatemalan Government.

I have, etc.,

JAMES R. HOSMER,
Chargé d'affaires ad interim.

[Inclosure in No. 809.]

Mr. Hosmer to Minister Barrutia.

GUATEMALA, *April* 26, 1888,

Mr. MINISTER: I beg respectfully to recall the attention of your excelency's Government to the complaint and protest of the managing director of the Champerico and Northern Transportation Company, of Guatemala, against the contract which was made by your excellency's Government with Mr. J. L. Bueron and others on the 8th of November, 1887, approved and ratified by the constituent assembly on November 14, 1887, and finally approved by the President on December 15 of the same year.

Evidently some mistaken calculation as to measurement must have prevailed upon your excellency's Government to grant to others a right which is clearly in contravention to the express terms of the contract entered into in good faith by the existing railroad company and the Republic of Guatemala as far back as March 12, 1881, and on account of the terms and stipulations of which citizens of the United States invested a large sum of money in the building and equipment of the road; because it is clear by the report of Mr. E. Rockstroh, the Government engineer, who was called upon by the late minister for foreign affairs to give an opinion in the matter, that the port of Ocos is within the prescribed distance of 15 leagues, which, according to the terms of the contract, for a period of twenty-five years from the date of the opening of the road for traffic, was agreed as the space upon which no other railroad should be constructed on either side of the line.

Hence it seems to my mind, that the Bueron contract must have been made under the misapprehension to which I have just alluded as to the technical point of relative distance. And if your excellency will carefully examine both Mr. Rockstroh's expert report and such other data as may be in the possession of the Government, in regard to the distance between the ports of Champerico and Ocos, I venture to express the belief that your excellency's Government will cause the contract for the construction of a railroad from the port of Ocos to Quezaltenango to be rescinded.

As a matter of argument it is not to be presumed that your excellency is not fully alive to the importance of maintaining inviolate all contracts which are made by a responsible Government with its own citizens or those of other countries, or how dangerous to the national credit, both at home and abroad, would be a violation of

them on the part of such a Government. I speak with pride, as a citizen of the United States, when I emphasize not only the particularity of my own Government in the faithful performance of its national obligations, but its earnest desire that all other nations with whom it has friendly relations should maintain the same respect and regard for all contracts entered into with the citizens of a friendly power.

I am confident that in the case in question, although I am not instructed to officially intervene, my Government would feel greatly pained to learn that the contract with the Champerico and Northern Transportation Company of Guatemala, owned and managed by citizens of the United States, was rendered ineffectual and virtually void by the continuance of another contract which to all intents and purposes supercedes it, and if carried out would destroy its traffic by ruinous competition.

It affords me pleasure, therefore, to anticipate the purpose which must animate your excellency's Government upon a careful reconsideration of the action already taken in causing the contract entered into with Messrs. Bueron and others, to build a railroad from the port of Ocos to the city of Quezaltenango, to be rescinded by the honorable constituent assembly on account of the evident error in the calculation of distance, which has the effect of practically annulling a previous contract made in good faith between the Republic of Guatemala and certain citizens of the United States, and without which reserved right of distance on either side of the line it would have been impossible to have prevailed upon capitalists to advance the money to build the road.

I entertain a feeling of confidence, also, that in the exercise of my good offices in behalf of my fellow-countrymen in the matter which I have ventured to bring to your excellency's notice, I will be acquitted of any presumptuous purpose tending in the remotest degree towards uncalled-for advice; but realizing to how great an extent the multifarious duties of your excellency's exalted position must necessarily absorb time and thought in their varied exercise, I have taken the liberty to recall the just cause for complaint and consequent protest on the part of the Champerico and Northern Transportation Company to the attention of your excellency's Government, with its suggested remedy, and to express my sincere hope and expectation that it will meet with that ever ready and prompt response which can not fail to be the purpose of an administration which evidences so earnest a desire to maintain the integrity of the Republic, and preserve its credit at home and abroad.

With renewed sentiments, etc.,

JAMES R. HOSMER,
Chargé d'Affaires ad interim.

No. 112.

Mr. Hosmer to Mr. Bayard.

No. 817.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, June 5, 1888. (Received June 25.)

SIR: I have the honor to acknowledge the receipt of your instructions numbered 575, of May 1, 1888, and in reply to the same to inclose to you a translated copy of the note of the minister for foreign affairs of the Republic of Costa Rica, in which he refers to an accompanying copy of the official Periodical of that Republic containing the President's decree notifying the withdrawal of, and concession made to the Marquis de Campo's line of steamers, and declaring the right of Costa Rica to make reclamation for non-fulfillment of contract; a translated copy of which decree also I now have the honor to inclose to you herein.

I have, etc.,

JAMES R. HOSMER,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 817.—Translation.]

Señor Esquivel to Mr. Hosmer.

DEPARTMENT FOR FOREIGN RELATIONS,
San José, May 2, 1888.

SIR: I have the honor to acknowledge the receipt of the note of February 14 last, from your legation. It seems to have been written under the impression that the

interests of the merchant marine of the United States would be injured by the rebate of 5 per cent. granted by my Government on the duties on all merchandise brought into this country by the Marquis de Campo's line of steamers.

I regret that I am compelled to differ in opinion on this subject from the chief of your legation and that the arguments adduced in my note of January 10 have failed to bring him over to the view held by my Government. At the same time I beg leave to inform you that the cause of our disagreement no longer exists, my Government having revoked the concession made to the Marquis de Campo's line of steamers for the reasons given in the decree published in the official newspaper, a copy of which decree I inclose.

This decree obviates the necessity for any further discussion of the concession made to the Marquis de Campo's line of steamers, but the note of February 14 refers also to concessions made in favor of several lines of British and German steamers running to the port of Limon. I am happy to say in reply that my Government has every disposition to make equal concessions to all lines of Atlantic steamers taking upon themselves the same obligations as the lines referred to.

With regard to the contract made with Mr. Pedro Terrés relative to the establishment of a line of sailing vessels between Limon and the ports of Europe, I do not hesitate to assert that my Government is ready to treat on the same terms with the representatives of any other line of sailing vessels willing to undertake the same obligations as Mr. Terrés.

My Government expects by this policy to promote the maritime commerce of the country, and thereby to increase its financial resources and to develop the few attractions presented by this Republic to maritime enterprise. This impartial policy can not fail to be of great benefit to every effort to increase maritime communication between our Atlantic port and other countries.

I am, etc., ASCENSION ESQUIVEL.

[Inclosure 2 in No. 817.—Translation from La Gaceta, the official newspaper.]

SAN JOSÉ, COSTA RICA, *April* 11, 1888.

Bernardo Soto, General-in-Chief of the Executive and Constitutional President of the Republic of Costa Rica: Considering that the concession granted to the Marquis de Campo to aid him in establishing the Spanish-American steam-ship line should be considered null and void, because the marquis has already withdrawn the steamers, after only a few months service, and because he has given notice of his intention to abandon the undertaking;

In virtue of these reasons, and in conformity with that clause of Article I marked "h," of the contract of July 1, 1887, approved by Congress on the 16th of the said month,

DECREES.

Only Article.—The concessions made to the Marquis de Campo is hereby revoked, and the Republic of Costa Rica retains the right to demand of the marquis whatever damages shall appear to be due for his non-fulfillment of contract.

Given at the presidential palace at San José, the 10th day of the month of April, 1888.

BERNARDO SOTO.

The Subsecretary of Marine in charge of the Bureau.

RONULFO SOTO.

No. 113.

Mr. Hosmer to Mr. Bayard.

No. 818.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,

Guatemala, June 9, 1888. (Received June 28.)

SIR: I have the honor to acknowledge receipt of your instructions numbered 574, of April 30, 1888, furnishing many good and sufficient reasons why the clause in the annulled treaty between the United States and Guatemala, relating to peace and friendship, should be still

in force, and I beg respectfully to inclose to you a copy of my note addressed to the minister for foreign affairs of Guatemala, dated June 6, 1888, in which I attempt to impart your views to that Government.

I have, etc.,

JAMES R. HOSMER,
Chargé d'Affaires ad interim.

[Inclosure in No. 818.]

Mr. Hosmer to Señor Barrutia.

GUATEMALA, *June* 6, 1888.

Mr. MINISTER: Referring to the note addressed to your excellency by the minister of the United States on the 3d of April last, in which it is stated that Mr. Concepcion Pinto had addressed a communication to this legation for information as to whether the Governments of the United States and Guatemala hold that those parts of the treaty of the 3d of March, 1849, between the two countries relative to peace and friendship are still in force as stipulated in its Article XXXIII, I now have the honor to acquaint your excellency that I am instructed by my Government that it holds "that the indicated treaty provisions relating to peace and friendship were not terminable and have not been terminated by the notice given by Guatemala in 1873."

My Government is of the opinion that there is a contradistinction between those provisions of the treaty annulled by notice from Guatemala which relate to intercommercial relations and those which relate to peace and friendship; that the former may be denounced by notice of either of the high contracting parties to the other, but that the latter are, from their very essence and nature, as stipulated by the first article of the treaty and defined by Articles XII and XIII, binding upon both; that the existing condition of peace between the two countries naturally includes friendship, mutually reciprocal and equally obligatory upon both Guatemala and the United States, and that under these circumstances there can be nothing unfair to Guatemala in treating the provisions referred to as in force.

Availing myself, etc.,

JAMES R. HOSMER,
Chargé d'Affaires ad interim.

No. 114.

Mr. Hosmer to Mr. Bayard.

[Extract.]

No. 819.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, June 9, 1888. (Received June 28.)

SIR: In continuation of my No. 809, of May 9, 1888, in which I inclosed a copy of my note addressed to the minister for foreign affairs, in obedience to your instructions numbered 563, of March 27, to employ the good offices of this legation in behalf of the Champerico and Northern Transportation Company, to remedy the wrong alleged to have been committed against that railroad by the Guatemalan Government, I now have the honor to inclose to you a translated copy of Minister Barrutia's reply addressed to me on the 24th ultimo, and a copy of my rejoinder to the same of this date.

I have, etc.,

JAMES R. HOSMER,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 819.—Translation.]

Señor Barrutia to Mr. Hosmer.

GUATEMALA, *May* 24, 1888.

SIR: I have the honor to reply to your esteemed note relative to the complaint and protest of the director of the Champerico and Northern Transportation Company against the contract celebrated by the Government with Mr. Luis Bueron and others for the construction of a railroad between Quezaltenango and the port of Ocos on the Pacific. You, sir, are pleased to indicate that in treating of this matter you do so unofficially, and it is in the same sense that I have the honor also to answer the cited note of your excellency.

Effectively my Government celebrated on the 8th of November, 1887, the contract referred to, and in making it I had in view the rights acquired by the owners of the railroad between Champerico and Retalhuleu; rights that have not been prejudiced, as they could never be, as it goes without saying that my Government maintains inviolate every perfected contract made between it and other persons, whether they be foreigners or natives.

This is so natural a position that any Government whatever that knows how to respect itself should consider it as a sacred duty and make it in every case the rule of its conduct.

I enter into these considerations in order to refer myself to the sentiments of your note above cited, which I find very much in accord with the convictions of my Government.

I am aware of the report of Mr. E. Rockstroh on the business in question, as well as to any other relative to the distance between Ocos and Champerico; but these reports, in my opinion, explain nothing in respect to the business in question, because the concessionaries, according to the contract, have the right to operate the railroad between the points indicated (Champerico and Retalhuleu) without any other person, company, or enterprise being able during the said time to construct another line at a less distance from the said line, but always understood to be between the points indicated.

Now, Champerico and Retalhuleu are very distinct, as you know, sir, from Quezaltenango and Ocos; they are not within the reserved strip and consqeuently the Government has, with perfect right and without violating other rights, contracted for this new line with Mr. Bueron.

But, even admitting the case, which I may venture as a supposition, that the Government should not have been correct, the Champerico railroad enterprise should have raised the question, if it believed that its rights had been injured in the sense that the contract indicates under the bases of which the said enterprise was carried to completion.

Article XXV establishes that if between the Government and the enterprise there should arise any question of any nature whatever it shall be submitted to the decision of two arbiters, and I believe that the case has arrived for an appeal to this recourse that should make clear the acts, and would give the right to whom it may belong.

I am, etc.,

SALVADOR BARRUTIA.

[Inclosure 2 in No. 819.]

Mr. Hosmer to Señor Barrutia.

GUATEMALA, *June* 9, 1888.

Mr. MINISTER: In acknowledging the receipt of your excellency's courteous reply of the 24th ultimo to my note of April 26, relative to the protest and complaint of the managing director of the Champerico and Northern Transportation Company, I must beg respectfully to differ from your excellency's views as to Article XXV of the contract applying to the question at issue. It does not arise from any dispute as to the meaning of the contract or as to its application to a particular state of facts, but is based upon a clear repudiation and disregard by the Guatemalan Government of some of the essential features of the agreement.

This is the opinion of my Government, in carefully reviewing the contract, and so expressed in calling my attention to the memorial which recited the facts upon which the complaint was based, and in instructing me to unofficially intervene in the matter; and, by referring to the memorial itself, I notice that it urges as follows:

"Your petitioner further states that he was refused a sight of the Bueron contract until it was published, after approval by the President, in the official gazette of the Government."

In such case it would have been impossible to have raised a question or questions of specific nature in regard to the new contract, or called upon arbitrators to decide upon matters of which the Champerico Railroad Company were necessarily ignorant. Hence, as I am informed, the managing director of the company filed with your excellency's Government and the honorable legislative assembly, then in session, a protest as to the action of the Government in granting a contract to build a railroad which, according to its proposed direction, would violate a pre-existing agreement by the terms of which a reserved right was stipulated to prevent the ruinous competition which would inevitably result by building a new railroad running through the coffee-producing country.

I am again constrained to urge upon your excellency's notice that the granting of the Bueron contract violates the vital feature of the existing agreement with the Champerico Railroad Company in giving the right to build a railroad within 15 leagues on either side of that road.

The importance of this stipulation is emphasized by being expressed in the second article of the contract, the first article being merely declaratory of the concession, and it seems to me that the language is most clear when it states: "No other person or enterprise, during the said term (twenty-five years), having the power to construct another at a less distance than 15 leagues on either side of the line" ["no pudiendo construirse otro por distinta persona ó empresa durante el mismo término, á menor distancia de quince leguas á uno y otro lado de la linea."]

"On either side of the line" can have but one meaning, to my mind, and that is, at any point measured from the line of the railroad at right angles to the same. So that Ocos, or any other point on the projected railroad, which is included in the Bueron contract, must, in the definition of article second of the contract with the Champerico Company, be measured from the line of railroad which has already been accepted by the Guatemalan Government, and has been in active operation for a period of nearly four years.

In thus urging upon your excellency's notice my argument in support of the good offices I am instructed to employ in behalf of the Champerico and Northern Transportation Company, I desire to re-affirm the expression of my personal opinoin that your excellency's Government will be actuated by the desire to remedy the unintentional wrong which the granting of the Bueron contract inflicts upon the railroad company whose rights the existence of the new contract menaces, and upon further consideration of the matter will cause that contract to be rescinded.

From the nature of my instructions I am sure that my Government will be gratified to learn that such a course has been pursued, and will recongnize it as a practical proof of the reciprocity of that friendship and good will which it sincerely entertains for the Republic of Guatemala.

Renewing the assurances, etc.,

JAMES R. HOSMER,
Chargé d' Affaires ad interim.

No. 115.

Mr. Hosmer to Mr. Bayard.

No. 823.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, June 21, 1888. (Received July 9.)

SIR: Referring to my No. 818, of the 9th instant, in which I inclosed to you a copy of my note to the minister for foreign affairs of Guatemala, imparting to him your views in respect to the provision of peace and friendship in the annulled treaty of 1849, I now have the honor to inclose to you a translated copy of Minister Barrutia's reply to my note, received by me June 13, although bearing date on the 9th instant, in which he concurs in the views I expressed in accordance with your instructions.

I have, etc.,

JAMES R. HOSMER,
Chargé d'Affaires ad interim.

[Inclosure in No. 823.—Translation.]

Señor Barrutia to Mr. Hosmer.

GUATEMALA, *June* 9, 1888.

SIR: Referring to your esteemed communication of the 6th instant, in which you show me that your Government holds that the contract celebrated the 3d of March, 1849, is not terminable in relation to peace and friendship, I have the honor to state that—the articles of that agreement being based on the general principles of popular rights—it is evident that the prescriptions can not be denied in any civilized country of the earth; and so it is, as you, sir, know very well, the stipulations of which I am speaking are to be completely observed, although no treaty exists which would establish them; I do not say only among nations which are of the same kind of Government and profess a sincere friendship as it is between Guatemala and the United States, but even amongst nations which have not these circumstances.

We are, therefore, perfectly in accord on this point, and for the reasons expressed, the convention (treaty), except as regards the stipulations of a terminable character which it contains, can not be considered as having terminated.

I approve, etc.,

SALVADOR BARRUTIA.

No. 116.

Mr. Bayard to Mr. Hall.

No. 596.] DEPARTMENT OF STATE,
Washington, July 11, 1888.

SIR: With further reference to Mr. Hosmer's dispatch No. 817, of the 5th ultimo, in relation to the Spanish Central American line of steamers and Costa Rica, I have to request you to furnish to the Department as full information as possible in regard to the contracts of the German and English line of steamers referred to in your correspondence with the Costa Rican minister for foreign affairs.

I am, etc.,

T. F. BAYARD.

No. 117.

Mr. Hall to Mr. Bayard.

No. 835.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, July 21, 1888. (Received August 9.)

SIR: By a decree numbered 278, dated the 14th of June, 1882, the Guatemalan Government declared Livingston, on the Atlantic coast, a free port, and an adjacent strip of territory, lying between the Sarstoon River and Santo Tomas, a free zone for a period of ten years from the 1st of January, 1883. The decree was duly carried out; Livingston became a free port in connection with the free zone, and has so continued to be up to this date, a period of five years and seven months, but now, without any previous intimation of its intentions, the Government issues another decree closing the port of Livingston, transferring the custom-house to Yzabal and abolishing the free zone.

The transfer of the custom-house to Yzabal, where it was formerly may not cause any serious inconvenience, but the suppression of the free zone is quite sure to give rise to complaints. Many foreigners,

among them a number of Americans, have purchased government lands therein and have engaged extensively in the growing of tropical fruit for the markets of the United States. Other foreign interests have also grown up there under the guaranties and inducements held out by the decree referred to.

I have deemed it my duty to invite the attention of the Guatemalan Government to these facts; to a consideration of the injuries that those interests are likely to sustain in consequence of the abolition of the free zone, and to suggest that its enforcement, at least, shall be postponed until they shall have been assured against losses.

In this connection I beg leave to invite the Department's attention to a similar case which occurred in Costa Rica in 1884 and was reported to the Department in my No. 241, of the 25th of July, and No. 263, of the 1st of October of that year; it was also the subject of the Department's instructions No. 170 of the 20th of August, No. 184 of the 13th of October, and No. 192 of the 29th of October, 1884.

For convenient reference, I inclose several papers relating to this case, and shall be glad to receive the Department's instructions in regard to it.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 835.—Translation.]

Decree No. 278 *of the* 14*th of June,* 1882, *declaring Livingston, Guatemala, a free port for ten years from* 1*st of January,* 1883.

J. Rufino Barrios, general of division and constitutional President of the Republic of Guatemala, considering that the opening of Livingston as a free port of deposit will give impulse in a notable manner to the commercial interests of the country, and will directly and efficiently stimulate the development of the wealth of the fertile coasts of the Atlantic, in use of the powers with which I am invested, I decree:

ARTICLE 1.

From the 1st of January next (1883) the port of Livingston shall be free for importations. On no articles imported thereat, whether for local consumption or for warehousing, shall any maritime duty be imposed during the term of ten years.

ARTICLE 2.

The Treasury Department shall designate the zone over which the concessions of the present decree shall be extended, and shall dictate all the regulations for its execution.

Therefore, let it be published for its promulgation and observance, and let account thereof be duly given to the legislative assembly.

Given in the palace of the executive power in Guatemala the 14th day of June, 1882.

J. RUFINO BARRIOS.

The secretary of state and of the department of public works:

MANUEL HERRERA.

[Inclosure 2 in No. 835.—Translation.]

DEPARTMENT OF THE TREASURY AND PUBLIC CREDIT.

Decree No. 414 *of the* 6*th of July,* 1888, *revoking decree No.* 278 *of the* 14*th of June,* 1882, *which declared Livingston a free port for the period of ten years from January* 1, 1883.

Manuel Lisandro Barillas, general of division and constitutional President of the Republic of Guatemala, considering:

That by executive order of November 27, 1885, the custom-house established in

Yzabal was transferred to the port of Livingston, and that this measure has not given the results which were desired;

That it is more desirable for the fiscal interests that the office of entry and dispatch of merchandise destined for the interior consumption of the Republic should be at Yzabal;

That by decree No. 278 of June 14, 1882, the opening of Livingston as a free port and of deposit was ordered in attention to the special circumstances of that period;

That at present, in view of the importance acquired by the wealth of those places and the notable development of their agriculture, there is no longer any motive for continuing to consider the territory comprised between the Sarstoon and Santo Tomas, on the gulf of that name, and San Felipe, situated on Lake Yzabal, in the Strait of Golfete, as a free zone;

That the unhealthy climate of Livingston gives rise to difficulties in the public service, because the employés are continually getting sick and have to leave the office for indefinite periods, which does not occur with the same frequency at Yzabal as its climate is less unhealthy and for the same reason competent employés for the service of the custom-house can be more readily found; therefore, I decree:

ARTICLE 1.

The custom-house at Livingston is suppressed and in substitution the custom-house of entry is established at Yzabal.

ARTICLE 2.

All merchandise heretofore imported through the port of Livingston shall be entered, indispensably, at the custom-house of Yzabal.

ARTICLE 3.

Foreign merchandise destined for consumption in the territory lying between the Sarstoon River, Santo Tomas, on the gulf of that name, and San Felipe, on Lake Yzabal, shall pay the corresponding import duties.

ARTICLE 4.

The removal of the offices of the custom-house at Livingston with its archives and dependencies, under respective inventory, shall be undertaken at once.

Given in the palace of the executive power at Guatemala the 6th day of July, 1888.

M. L. BARILLAS.

The secretary of state in the department of finance and public credit:

MAURICIO RODRIQUEZ.

[Inclosure 3 in No. 835.]

Mr. Hall to Señor Martinez Sobral.

GUATEMALA, *July* 17, 1888.

Mr. MINISTER: By decree No. 278, of the 14th of June, 1882, the port of Livingston was declared free from all customs duties upon importations, whether for consumption or deposit, for the period of ten years from the 1st of January, 1883. The free zone of Livingston was made to comprise the territory lying between the Sarstoon River and Santo Tomas, including San Felipe, on Lake Yzabal.

Under the inducements held out by this decree and its guaranties many foreigners have taken up and purchased government lands in the free zone, and have entered largely into the production of tropical fruit for the markets of the United States, while other associated interests have been created under the same guaranties, which have still four years and over to run before the period expressed in the decree shall have expired.

By decree No. 414, of the 6th, published in the El Guatemalteco of the 10th instant, the above-mentioned decree No. 278 is revoked; the custom-house at Livingston will be suppressed and the free zone will be abolished; it is understood also that this measure is to have immediate effect, no previous notification whatever having been given by the Government of its intentions.

The interests created in virtue of the inducements and guaranties set forth by the first-mentioned decree, No. 278, will, beyond a doubt, be seriously prejudiced by its revocation; the measure can not fail to call forth the remonstrances and protests of the injured parties. This eventuality must certainly have been overlooked at the time the present decree was issued.

I beg leave to submit this subject, in all its bearings, to the enlightened criterion and high sense of equity and fair dealing of the Government of your excellency, fully persuaded that, whatever may be the motives for the abolition of the free zone, the enforcement, at least, of decree No. 414 will be postponed until the interests created under the guaranties of the decree of the 14th of June, 1882, shall have been assured against the losses and injuries which now threaten them.

Renewing, etc.,

HENRY C. HALL.

[Inclosure 4 in No. 835.—Translation.]

Señor Martinez Sobral to Mr. Hall.

DEPARTMENT OF FOREIGN RELATIONS,
Guatemala, July 19, 1888.

MR. MINISTER: I have had the honor to receive the esteemed note of your excellency in which you are pleased to address to the Government some observations in regard to the difficulties to which the enforcement of decree No. 414, issued on the 6th instant, might give rise.

I have also the pleasure to say to you that my Government accepts, with the interest which is due the observations you make in regard to the mentioned decree, and will take them into consideration in dictating its resolution, inasmuch as its desire is that the interests of the foreigners who come to the country shall be guarantied by the laws.

With sentiments, etc.,

E. MARTINEZ SOBRAL.

No. 118.

Mr. Bayard to Mr. Hall.

No 608.] DEPARTMENT OF STATE,
Washington, August 14, 1888.

SIR: I have received your No. 835 of the 21st ultimo, relative to the decree of the Government of Guatemala, revoking its former decree of 1882, establishing Livingston a free port and its adjacent district a free zone, and have attentively considered your observations upon this subject.

Your protest against this summary action of the Guatemalan Government, as shown by the representations made in your note of the 17th ultimo to the minister of foreign affairs, meets with the Department's approval. The instructions heretofore sent to you in 1884, respecting a similar case in Costa Rica, and to which you specifically refer, sufficiently state the principles by which your conduct will be guided.

I am, sir, etc.,

T. F. BAYARD.

No. 119.

Mr. Hall to Mr. Bayard.

No. 844.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, August 14, 1888. (Received August 30.)

SIR: With my No. 835 of the 21st instant, I inclosed a copy and translation of a decree of the Guatemalan Government abolishing the

free port and zone of Livingston and transferring the custom-house at that place to Yzabal.

The Government has now reconsidered the matter and has suspended, temporarily, the enforcement of article 3 of the mentioned decree, which relates to the free zone. The custom-house has already been transferred to Yzabal.

Before any other measure shall have been adopted I hope to receive an instruction on the subject from the Department.

I have, etc.,

HENRY C. HALL.

[Inclosure in No. 844.—Translation.]

Executive order suspending the operation of article 3 of decree No. 414 of the 6th of July last, relative to the free zone on the Atlantic coast of Guatemala.

DEPARTMENT OF FINANCE AND PUBLIC CREDIT,
PALACE OF THE GOVERNMENT,
Guatemala, August 6, 1888.

The Government, wishing to favor importers of merchandise for consumption in the free zone created by decree No. 278 of the 14th June, 1882, and defined by the regulations of the 6th of December of the same year, taking into consideration the several memorials presented by merchants and the fact that in order to adopt an appropriate resolution the Government needs to consider attentively what these merchants have set forth, the President of the Republic decrees—

That, for the present and until otherwise ordered, article 3* of decree No. 414 of the 6th July of the current year is not to take effect and the territory comprised between Sarstoon and Santo Tomas, on the gulf of that name, and San Felipe, on Lake Yzabal in the strait of Galfete, is to be considered a free zone, and, consequently, the following-named places, Cocoli, Sarstoon, Livingston, and Santo Tomas are comprised therein.

Let it be communicated.

Signed by the President.

RODRIQUEZ.

No. 120.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 857.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, September 4, 1888. (Received September 20.)

SIR: Ever since my return from the United States, early in July last, I have given constant attention to the subjects of your instruction No. 563, which relates to the complaint of the Champerico and Northern Transportation Company, of San Francisco, in regard to an alleged violation of their contract with the Guatemalan Government. In pursuance of that instruction, Mr. Hosmer addressed two communications to the minister for foreign affairs, dated, respectively, the 26th of April and the 9th of June last. The former was answered on the 9th of May, and the minister's note was transmitted to the Department with

* See inclosures 2, 3 and 4 in Doc. No. 117, p. 159, *ante*.

Mr. Hosmer's dispatch No. 819. The communication of the 9th of June has not yet been answered.

This case has been the subject of many interviews with President Barillas, Señor Sobral, and myself. Fully a month ago it was agreed that the concession should be revoked because of its illegality, or that Messrs. J. L. Bueron & Co. should be induced to surrender and cancel it. The latter course was adopted, with the approval of Mr. Sanford Robinson, the managing director. Mr. Bueron, who lives at Quesaltenango, was sent for, and a day or two after his arrival I was informed by President Barillas and Señor Sobral that everything would be arranged to my satisfaction; that Bueron had agreed to cancel the contract and to give up his concession.

On the 31st ultimo, upon learning that Mr. Bueron was on his way back to Quezaltenango, I called upon Señor Sobral to ascertain what had been done in the premises. He could not inform me. I then called on President Barillas, and from him learned that Bueron had signed a document in the department of public works which he understood, although he had not seen it, to be the recission of the contract. He sent for it, and it proved to be nothing more than a simple memorial to the minister for public works asking for certain modifications of the original contract, in no way affecting its objectionable features, but generally leaving it in full force.

Mr. Robinson informs me that at the time the Bueron concession was granted the company were in treaty with parties in London for the sale of their property, and that in consequence negotiations were suspended and have not since been resumed.

On the 1st instant I addressed a note to Señor Sobral, of which the inclosure is a copy, in which I requested a reply to Mr. Hosmer's note of the 9th of June last. During the evening Señor Sobral called at the legation to show me the draught of a document which he had forwarded to Quezaltenango for Bueron's signature; this document was in consonance with the promises made me by President Barillas.

I have, etc.,

HENRY C. HALL.

[Inclosure in No. 857.]

Mr. Hall to Señor Sobral.

LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Guatemala, September 1, 1888.

Mr. MINISTER: By special instructions of my Government a communication, dated the 9th of June last, was addressed to your excellency's predecessor, Señor Barrutia, relative to the complaint of the Champerico Railway Company, of California, which alleges that there has been a violation on the part of your excellency's Government of its contract with that company, by the concession of the 7th of November, 1887, to Messrs. J. L. Bueron & Co., against which the company, through their general agent in this Republic, made, and filed in this legation, due and timely protest, and the same was transmitted to the ministry now under your excellency's worthy charge, with my communication, dated the 18th of the same month of November, 1887.

As more than four months have elapsed since this matter was first brought to the notice of your excellency's Government by instruction of my own, and as nearly two months have elapsed since the communication first above mentioned was written, I beg leave, most respectfully, to request your excellency to inform me what resolution, if any, the Government of your excellency has been pleased to adopt, or proposes to adopt, in regard to the revocation of the concession of the 7th of November, 1887, to Messrs. J. L. Bueron & Co. Your excellency will, no doubt, concur with me

that my Government is entitled to a definitive answer to the respectful communication on the subject which, by its special instruction, was addressed to that of your excellency on the 9th of June last.

This occasion affords me the opportunity to renew, etc.

HENRY C. HALL.

No. 121.

Mr. Hall to Mr. Bayard.

No. 863.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Guatemala, September 10, 1888. (Received October 2.)

SIR: With my dispatch No. 620, of the 21st of February, 1887, I had the honor to transmit a copy and translation of a general treaty between the five Central American States, signed in this city on the 16th day of that month.

Article 26 of the treaty provides for a congress of the States, which shall meet every two years at their several capitals in the following order: Costa Rica, Salvador, Honduras, Nicaragua, and Guatemala, and that the first of these meetings shall be held at the capital of Costa Rica, on the 15th of September, 1888.

The above-mentioned treaty has been ratified unconditionally by Guatemala, Honduras, and Costa Rica, and by Salvador with some amendments: Nicaragua as yet has taken no action in regard to its ratification; notwithstanding that State will be represented in the congress which will meet at San José, Costa Rica, on the 15th instant.

The following are the names of the delegates of the several States: Señor Don José Farfan, for Guatemala; Dr. Don Jeronimo Zelaya, minister for foreign affairs of Honduras, for Honduras; General Don Isidro Urtecho, for Nicaragua; Señor Don Pedro Perez Zeledon, for Costa Rica; Dr. Don Francisco E. Galindo, for Salvador.

I have, etc.,

HENRY C. HALL.

No. 122.

Mr. Bayard to Mr. Hall.

[Extract.]

No. 617.] DEPARTMENT OF STATE,
Washington, September 11, 1888.

SIR: I have received your telegram of the 2d instant, reporting that the Guatemalan Government persists in sustaining the Bueron contract, and requesting instructions as to protecting the rights of the injured parties.

On the 7th instant I replied to you by telegraph.

The principle applicable in this, as in other cases of contractual claims against foreign governments, was laid down in my instruction No. 563, of March 27, 1888. It was there stated that, except where citizens holding such claims were unduly discriminated against by the debtor government or were denied a judicial domestic remedy against it, the Gov-

ernment of the United States would refuse to press the claims, and would limit intervention to the tender of the unofficial good offices of our diplomatic representatives. You were instructed that the present case was one in which that course might properly be adopted, and you were authorized to present unofficially to the Guatemalan Government the grievances of which the petitioners, the Champerico and Northern Transportation Company, complained.

These grievances are fully set forth in the instructions already referred to, and consist in part of a proposed concession to Messrs. J. L. Bueron & Co. of the right to construct a parallel line of road in a manner directly contrary to the plain language of the concession held by the petitioner. This conduct amounts, as stated in my former instructions, to a "clear repudiation and disregard by the Guatemalan Government of some of the essential features of the agreement." But, however serious in its consequences to the petitioner, it appears to be nothing more than a breach of contract. Your later dispatches, Nos. 809, of May 9, and 819, of June 9, 1888, on this subject present no facts which would serve to remove it from this category; and I am therefore constrained to repeat my former instructions, limiting you to the use of your unofficial good offices in presenting the case to the Guatemalan authorities.

I am, sir, etc.,

T. F. BAYARD.

No. 123.

Mr. Bayard to Mr. Hall.

No. 621.] DEPARTMENT OF STATE,
Washington, September 17, 1888.

SIR: In connection with my instruction No. 613 of the 31st ultimo, in regard to the discriminating duties applied to American vessels in Costa Rican ports, I have to inclose for your information a copy of a letter from the Secretary of the Treasury of the 12th instant, saying, in view of the statements made in your Nos. 841 and 842, that instructions would be given to customs officers generally, imposing discriminating duties in the case of importations into the United States in Costa Rican vessels.

I am, sir, etc.,

T. F. BAYARD.

[Inclosure in No. 621.]

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT,
September 12, 1888.

SIR: I have the honor to acknowledge the receipt of your letter, dated the 31st ultimo, touching the rescinding of the contract of the Marquis de Campo line of steamers and transmitting copies and translations of contracts between the Costa Rican Government and various lines of foreign and Costa Rican steamers, which are stated to enjoy, practically under said contracts, a monopoly of the carrying trade between the United States and Costa Rica, to the exclusion of vessels of the United States.

Instructions will be given to customs officers generally, imposing discriminating duties in the case of importations into the United States in Costa Rican vessels.

Respectfully, etc.,

C. S. FAIRCHILD,
Secretary.

No. 124.

Mr. Hall to Mr. Bayard.

No. 868.] LEGATION OF THE UNITED STATES
IN CENTRAL AMERICA,
Guatemala, September 19, 1888. (Received October 11.)

SIR: With my dispatch No. 542 of the 6th of August, 1886, I had the honor to transmit to the Department a copy and translation of a circular of the Guatemalan Government to the civil authorities of the country, instructing them touching the conduct they are expected to observe in their relations with foreigners, and furthermore instructing them in cases of difficulties to communicate by telegram directly with the minister for foreign affairs before taking action.

I have now to inclose a copy and translation of another circular of the same character, addressed to the prefects of the departments, and through them to the judicial administration and military authorities reminding them of their duties and obligations in the premises.

This circular has been issued in consequence of the affair at Livingston on the 25th ultimo.

I have, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 868.—Translation.]

Señor Sobral to Mr. Hall.

DEPARTMENT OF FOREIGN RELATIONS,
Guatemala, September 17, 1888.

Mr. MINISTER: I have the pleasure to transmit to you inclosed four copies of the circular addressed by this department to the prefects (jefes politicos) of the Republic, prescribing the conduct which the Government ordains is to be observed by the administrative, judicial, and military authorities in regard to foreigners residing in the country.

Requesting that you will be able to give account thereof to your Government,

I have the honor, etc.,

E. MARTINEZ SOBRAL.

[Inclosure 2 in No. 868.—Translation.]

Circular relative to the conduct to be observed by the Guatemalan local authorties towards foreigners.

DEPARTMENT OF FOREIGN RELATIONS,
Guatemala, September 13, 1888.

To the prefect (jefe politico) of ——:

The expediency of attracting worthy and industrious emigrants, who having established their residence and domicil in this country, shall become examples of morality, order, and of respect for the laws, and promoters of progress, has on different occasions been the the motive for the emission of administrative instructions, having for their object the protection of foreigners, to afford them facilities for extending their business, fixing their status, and in general terms designating their rights and duties.

All the guaranties of liberty, property, and security which the constitution recognizes for the inhabitants of Guatemala are equally accorded to foreigners who visit our land; and although they do not exercise the rights of citizenship, they undoubtedly have the right to claim that the laws and the authorities shall protect their persons, their business, their industries, and their property.

In the exercise of civil rights, exclusive of political capacity, our laws make no distinction between Guatemalans and foreigners; familiar rights are conceded alike to Guatemalans and to foreigners; to both the right also to acquire and dispose of

property by lawful titles; the right to inherit and devise by wills; to both are given free access to the courts; to both, facile accessibility to the administrative authorities for such actions as may be incumbent upon them; both have the right to enter into contracts, with due observance of the prescriptions of the laws; in a word, natives and foreigners are entitled to the same rights and to the same protection and enjoyment of tranquillity and to obtain by honorable industry the conservation and increase of their possessions.

The constitutional precept that the authorities are created to uphold the inhabitants in the enjoyment of their rights, refers alike to Guatemalans and to those born abroad who come to reside in our country. The authorities, therefore, can make no distinction when either appear before them in demand of their rights, to present their complaints, or to solicit the protection to which they may be entitled. In the same manner that facilities are afforded to natives for the establishment and development of their business and the protection of their persons and rights, so also, within the limits of the law, should foreigners be protected against abuse and violence and afforded ample aid in the protection of their agricultural and industrial enterprises.

It is opportune to remind foreigners that they are not bound to discharge municipal duties, nor do military service, nor to work personally on the roads, their obligations in this last respect is limited to the payment of the corresponding road tax; that the administrative authorities can demand of them no tax or anything else that the laws do not impose; that the judicial authorities must afford them prompt and strict justice, and that those of the military order, although acting as administrative or civil authorities, are under the obligations to respect them in the same manner as they must respect the natives of Guatemala.

But, at the same time, articles 13 and 15 of the constitution are to be borne in mind:

"Foreigners, from the moment they arrive in the territory of the Republic, are strictly bound to respect the authorities and to observe the laws, and they are entitled to be protected by them.

"Foreigners are bound to respect the police regulations and orders; to pay the local imposts and the established taxes upon trade, industry, professions, property or possession thereof, as also such imposts and taxes as may be established thereafter, or when those first mentioned shall have been increased or diminished."

Our laws therefore afford every kind of guaranties to foreigners, but concede them no privileges; and if, in conformity with international law, they recognize favorable distinctions in regard to diplomatic agents, they establish no odious inequalities against those of foreign birth who fix their residence among us or who land upon our shores.

The Government of Guatemala, ever inspired by those elevated principles which tend to facilitate the relations of men of all countries, and disposed to consider and to respect alike natives and foreigners, inasmuch as all form a part of the great human family, has at different times issued strict instructions with the view of better assuring the security and welfare of such foreigners without distinction of nationalities.

The President of the Republic, from whom I have received instructions to the effect, directs, through my medium, that you be reminded of the contents of the circular of the 29th June, 1886, and to call your attention to the obligations to give immediate notice to the Government by telegraph of any difficulties that may arise on account of the application of the respective laws, to the end that whatever obstacle exists may be removed and opportune instructions given to whomsoever it may concern. Above all, the President desires that you inculcate in the subordinate authorities of your dependency their duty to observe these instructions, given with a view to avoid international claims and conflicts, with the assurance that the infractors will be made to feel the full weight and rigor of the laws.

In thus carrying out the President's instructions, I subscribe myself, etc.,

MARTINEZ SOBRAL.

No. 125.

Mr. Bayard to Mr. Hall.

No. 624.] DEPARTMENT OF STATE,
Washington, September 27, 1888.

SIR: I have received your No. 857, of the 4th instant, relative to the complaint of the Champerico and Northern Transportation Company against Guatemala.

I gladly commend your diligence in repeatedly pressing the case upon the attention of that Government in the hope of reaching a satisfactory settlement, but I must express the Department's regret at the reported delays and evasions which characterize the Guatemalan Government's treatment of the complaint.

I am, sir, etc.,

T. F. BAYARD.

No. 126.

Mr. Hall to Mr. Bayard.

[Extract.]

No. 871.] LEGATION OF THE UNITED STATES,
Managua, Nicaragua, September 29, 1888. (Received October 25.)

SIR: With reference to previous correspondence relative to the complaint of the Champerico Railway Company of San Francisco, Cal., against the action of the Guatemalan Government in granting a concession to Messrs. J. L. Bueron & Co. to construct a parallel railway from the port of Ocos to Quezaltenango, in alleged violation of a contract with the former,

I have the honor to transcribe the following copy and translation of a telegram, dated yesterday, from the minister for foreign affairs of Guatemala, to the effect that Messrs. J. L. Bueron & Co. have given up their concession.

Hoy ha sido presentado al ministerio de fomento el escrito del Señor Bueron en que retira su concesion.

The document of Señor Bueron, by which he surrenders his concession, has been presented to-day to the minister for public works.

I am, etc.,

HENRY C. HALL.

No. 127.

Mr. Bayard to Mr. Hall.

No. 633.] DEPARTMENT OF STATE,
Washington, October 26, 1888.

SIR: I am in receipt of your No. 871, of September 29 last, announcing the settlement of the complaint of the Champerico Railway Company of San Francisco against the Government of Guatemala, through the surrender of the concession granted to Messrs. J. L. Bueron & Co. to construct a parallel road from the port of Ocos to Quezaltenango.

I desire to express the Department's satisfaction that this question, which threatened a grievous injury to the contract rights of American citizens, whose capital and enterprise had been legitimately invested in Guatemala, is thus removed from the field of diplomatic discussion.

I am, etc.,

T. F. BAYARD.

No. 128.

Mr. Hall to Mr. Bayard.

No. 883.] LEGATION OF THE UNITED STATES IN CENTRAL AMERICA,
Guatemala, November 7, 1888. (Received December 7.)

SIR: In continuation of my dispatch No. 871, of the 29th of September last past, relating to the complaint of the Champerico Railway Company of San Francisco against the Guatemalan Government, I have the honor to transmit copies and translations of correspondence having special reference to the canceling of the concession to Messrs. J. L. Bueron & Co., granted in November, 1887, for the construction of a railway from the port of Ocos to Quezaltenango, which concession has been shown to be a violation of that of 1881, held by the Champerico company.

My dispatch referred to contains a transcript of a telegram from the minister for foreign affairs of Guatemala, received at Managua, in which he announces the surrender of the Bueron concession, in other words its abrogation, with the consent of the grantees.

Soon after my return to this capital from Nicaragua I asked for a confirmation of the telegram to be given me in an official communication, and it was promptly accorded. On the 25th ultimo I informed the managing director, Mr. Sanford Robinson, of the result, and on the 4th instant received his reply expressing unqualified gratification that the matter had been brought to such a satisfactory termination. I respectfully invite your notice of this correspondence, and beg to be permitted to add that, in treating of this case with the Guatemalan Government, I have endeavored to conform strictly to your instruction No. 563, of the 27th March last past.

I am, etc.,

HENRY C. HALL.

[Inclosure 1 in No. 883.]

Mr. Hall to Señor Sobral.

GUATEMALA, *October* 22, 1888.

MR. MINISTER: I had the honor to receive at Managua, Nicaragua, on the 29th ultimo, your excellency's following telegram:

"PALACIO DEL GOBIERNO,
Guatemala, Setiembre 28 *de* 1888. (Recibido en Managua á las 11 a. m. del 29.)

"Señor HENRY C. HALL,
"*E. E. Y. M. P. de los E. E. U. U. en Centro America, Managua:*

"Hoy ha sido presentado al ministerio de fomento el escrito del Señor Bueron en que retira su concesion. Al comunicarlo á Ud. me es grato asegurarle que soy muy atento S. S.

"E. MARTINEZ SOBRAL."

I have transcribed the foregoing to my Government and am confident that it will have been received with much satisfaction. I should be pleased to receive from your excellency a confirmation of the telegram.

It remains for me to tender to your excellency and his excellency the President my sincere thanks for the interest taken in this matter.

I avail myself, etc.

HENRY C. HALL.

[Inclosure 2 in No. 883.—Translation.]

Señor Sobral to Mr. Hall.

DEPARTMENT OF FOREIGN RELATIONS,
Guatemala, October 24, 1888.

SIR: In conformity with the wish made known by your esteemed note of the 22d instant, I have the pleasure to confirm the telegram which, under date of the 28th September last past, I addressed to you at Managua, Nicaragua, as follows:

"OFFICIAL TELEGRAM, *September* 28, 1888.

"H. E. HENRY C. HALL,
E. E. and M. P. of the United States in Central America, Managua:

"The document of Señor Bueron, by which he surrenders his concession, has been presented to-day to the minister of public works (fomento).

"In communicating it to you, it is a pleasure to assure you that I am, etc.,
"E. MARTINEZ SOBRAL."

I improve this occasion to repeat to you that I am, with personal esteem,
Yours, etc.,

E. MARTINEZ SOBRAL.

CHILI.

No. 129.

Mr. Roberts to Mr. Bayard.

[Extract.]

No. 162.] LEGATION OF THE UNITED STATES,
Santiago, October 7, 1887. (Received November 15.)

SIR: The Anglo-Chilian Tribunal adjourned *sine die*, England having accepted $100,000 gold in liquidation of the twenty-one claims submitted for diplomatic action.

As near as I can make out, the amount of claims liquidated by the $100,000 is about $6,000,000. The Italian-Chilian Tribunal heard arguments in a few cases, but as yet has rendered no decisions.

The French claims stand as heretofore advised. I think the French Government will accept the offer made by Chili.

The Spanish minister awaits the dissolution of the tribunals before presenting the claims of Spanish citizens.

I am, etc.,

WILLIAM R. ROBERTS.

No. 130.

Mr. Roberts to Mr. Bayard.

[Extract.]

No. 164.] LEGATION OF THE UNITED STATES,
Santiago, October 28, 1887. (Received December 8.)

SIR: In my dispatch No. 162, dated the 7th instant, referring to the international claims tribunals, I stated that the Anglo-Chilian had adjourned *sine die*, the remaining twenty-one claims having been settled diplomatically by Chili paying $100,000 gold in liquidation of the same.

I added, that as near as could be ascertained the amount of these claims so settled was about $6,000,000. This was arrived at by deducting the amount of the claims decided, as published in the Diario Oficial, from the sum total as given over a year ago.

On the 14th instant, the Diario Oficial published another decision of the English Tribunal, on the largest claim before it, namely, The Peruvian Guano Company, limited, for £792,233, 13*s.* 5*d.* for losses sustained in not being able to carry out its contract with the Peruvian Government in the carrying and selling by assignment 1,900,000 tons of guano, on account of the war between Chili and Peru, claiming a damage of

£4 15*s.* a ton on the unfulfilled part of the contract This being in the nature of consequential damages, the tribunal declared itself incompetent to try the case, not being "directly caused by the operations of the land or sea forces of Chili on the coast or territory of Peru."

This decision, of which I had no knowledge when writing the dispatch referred to, entirely changes the figures as given, which, corrected, should read thus: Twenty claims, amounting to £50,125, and $49,666 silver, or say in all $300,291, were settled for $100,000 silver, and not gold as was published in the press at that time.

I have, etc.,

WILLIAM R. ROBERTS.

[Inclosure in No. 164.]

List and amount of claims presented to and decided by the Anglo-Chilian tribunal.

No.	Name.	Where.	Character of claim.	Amount.	Amount in silver dollars.	When decided.	Decision.
				£ s. d.			
1	Richard T. Anderson	Lima	Interest on bonds		$11,200.00	July 5, 1884	Disallowed.
2	James Noble	Chimbote	Merchandise		1,669.00	Aug. 23, 1884	Disallowed, English arbiter dissenting.
3	Thomas Lawlor	Lima	Horses		3,000.00	July 19, 1884	Allowed, Chilian arbiter dissenting.
4	James Kirkwood	Tacna	Furniture, etc		6,000.00	Sept. 16, 1884	Disallowed, English arbiter dissenting.
5	Duncan, Fox & Co	Chorillos	House	1,000 00 0		Sept. 16, 1886	Disallowed.
6	do	Pisco	Bale of osnaburgs	157 11 9		July 5, 1884	Allowed.
7	J. Stafford & Co	Mollendo and Callao.	Tea and beer	132 15 3		Sept. 24, 1884	Disallowed.
8	David Genno	Callao	Losses	173 00 0		July 19, 1884	Disallowed, President Lopez Netto dissenting.
9	John Farquharson	Cerro Azul	Trunk	462 00 0		do	Disallowed, English arbiter dissenting.
10	William Fry	Mollendo	Merchandise	4,554 10 6		Jan. 10, 1885	Disallowed.
11	do	Quilca	Sugar, etc		2,742.45	Sept. 22, 1887	Ordered to be filed.
12	Huth & Co	Mollendo	Merchandise	327 10 0		Sept. 27, 1884	Disallowed, English arbiter dissenting.
13	Cockburn, Roxburgh & Co	Payta	Cotton	70 16 5		Aug. 23, 1884	Allowed, Chilian arbiter dissenting.
14	John Mathison and others (Chorillos Gas Company).	Chorillos	Losses	1,819 18 0		Oct. 1, 1884	Do.
15	John Mathison	Barranca	House	1,000 00 0		Oct. 11, 1884	Do.
16	do	Payta	Sherry	90 00 0		Nov. 15, 1885	Disallowed.
17	William B. Minhimmick	Miraflores	Furniture	800 00 0		Jan. 10, 1885	Disallowed, English arbiter dissenting.
18	William Simpson	do	House	1,000 00 0		do	Do.
19	James Bishop	do	House and furniture	1,596 13 4		Nov. 15, 1885	Do.
20	Alfred Brierly	do	do	415 19 6		Aug. 27, 1884	Do.
21	William E. Aicken	do	Furniture	1,825 00 0		Aug. 30, 1884	Do.
22	Philip Rosenthal	do	Property	416 13 7		Aug. 16, 1886	Allowed.
23	Kemish & Nelson	Chorillos	Merchandise	1,963 16 11		Nov. 15, 1885	Disallowed, English arbiter dissenting.
24	Benjamin J. Smith	Miraflores	Furniture	111 13 00		Aug. 30, 1885	Disallowed.
25	Lima Railways Company	Lima	Stations, etc	8,423 2 10		Nov. 15, 1885	Disallowed, English arbiter dissenting.
26	Samuel Peake	Huanillos	Lighters	13,835 1 7		Aug. 16, 1886	Tribunal incompetent.
27	John James Harris	Callao	Sundries		46,165.00	Nov. 21, 1884	Allowed $25,000, Chilian arbiter dissenting.
28	do	do	do		14,600.00	Oct. 8, 1884	Disallowed.
29	Robert Reid	Chorillos	Furniture	482 15 00		Nov. 29, 1884	Allowed, Chilian arbiter dissenting.
30	Bates, Stokes & Co	Huancayo	Wool	774 00 00		Oct. 31, 1884	Disallowed.
31	Scott & Long	Chorillos	Workshops	1,922 00 10		Nov. 15, 1885	Disallowed, British arbiter dissenting.
32	John Scott	do	House, etc	1,500 00 00		Aug. 2, 1886	Do.
33	William Tweddale	Pisagua	Clothes		500.00	Sept. 6, 1884	Disallowed.
34	Charles Baker	Arica and Azapa	Sundries		31,483.00	Aug. 2, 1886	Disallowed, English arbiter dissenting.
35	Frederick Peede	Barque	*La Plata*		31,981.00	Aug. 16, 1886	Incompetent.

36	William S. Main	Tourbo de Mora	Furniture	1,530 00 00		Aug. 2, 1886	Disallowed.
37	Charles H. Williams	Miraflores	House, etc	5,000 00 00		do	Disallowed, English arbiter dissenting.
38	Gunston, Edmundston & Co	Mejillones	Mortgage on railroad and customs receipts.	44,336 2 5		do	Incompetent.
39	William Long	Chorillos	Furniture	800 00 00		Aug. 8, 1887	Disallowed, English arbiter dissenting.
40	George Elster	do	do		6,311.00	Aug. 11, 1886	Do.
41	Miller & Co	Tacna	Ten barrels fuse	64 00 00		Aug. 16, 1886	Incompetent.
42	William S. Stanley	Iquique	Losses		37,922.65	Nov. 2, 1886	Allowed $12,000.
43	George E. Steel	Cerro del Pasco	Carts, etc		2,000.00		Settled outside of tribunal.
44	Mary Watkins	Barranco	Clothing, etc		6,047.00	Aug. 16, 1886	Disallowed.
45	Gerard Garland	Chorillos	House and furniture	4,609 18 4		Aug. 25, 1887	Disallowed, English arbiter dissenting.
46	Mary P. de Maclean	Arica	do		71,690.00	Oct. 11, 1886	Disallowed.
47	Peruvian Guano Company		Losses of freight on contract.	792,233 13 5		Sept. 15, 1887	Incompetent.
48	do		Guano, tools, etc	46,413 7 4			Settled outside of tribunal.
49	John Meikle	Tourbo de Mora	Sundries	534 00 00		Aug. 2, 1886	Disallowed.
50	Robert Bishop	Mollendo	Furniture		800.00	Aug. 16, 1886	Do.
51	Roger Davis	Mejillones	House and furniture		4,500.00	do	Do.
52	John Tregear	Arica and Tacna	Goods, merchandise		11,270.33	Nov. 2, 1886	Disallowed, English arbiter dissenting.
53	Edward Chirineo				13,917.20		Settled outside of tribunal.
54	Charles Watson	Mollendo	Property		220,645.18	July 4, 1887	Disallowed.
55	Robert K. Jeffery			2,035 00 00		July 7, 1887	Disallowed, English arbiter dissenting.
56	Thomas Wheelock	Chorillos	House		30,000.00	July 14, 1887	Do.
57	Simon, Israel & Co	Mollendo	Merchandise	1,688 3 8		Aug. 25, 1887	Disallowed.
58	John T. North	Ship	*Marañon*		74,000.00	Nov. 2, 1886	Incompetent.
59	do	Pisagua	Property		12,585.93	do	Disallowed, English arbiter dissenting.
60	do	Papellan de Pica	Water-condensing machinery, etc.		12,500.00	do	Allowed $6,000.
61	Thomas S. Tuffield	Tacna	Furniture	764 8 00		Aug. 2, 1886	Disallowed, English arbiter dissenting.
62	John Braithwaite	do	do		4,740.97	Sept. 22, 1887	Ordered to be filed.
63	Henry H. Nagle	Barque	*Lilly Grace*	4,583 6 8		Aug. 18, 1887	Incompetent.
64	Lebbeus Sumpter		Pigs	183 6 8		Aug. 2, 1886	Allowed.
65	William Hill	Ancon	Property		6,940.00	July 14, 1887	Disallowed.
66	Dugald McLellan		Furniture	141 15 00			Settled outside of tribunal.
67	Alexander Stenhouse	Mollendo	House		3,000.00	July 14, 1887	Disallowed.
68	Alice Gallagher de Carrol	Chorillos	Half house	3,000 00 00		Oct. 11, 1886	Disallowed, English arbiter dissenting.
69	Virginia M. de Swain	do	Property		40,120.10	Nov. 2, 1886	Disallowed.
70	do	Cañeta	Damages		23,645.20	do	Do.
71	do	Callao	Duties		17,740.65	do	Do.
72	Samuel Peake		Hardware		244.70	Aug. 2, 1886	Do.
73	William Spedie	Mollendo	Lighters and property		358,954.00	June 27, 1887	Disallowed, English arbiter dissenting.
74	Brooking, James & Co	Pisagua	Losses	13,124 11 00		July 14, 1887	Do.
75	London Bank of Mexico	Lima	Deposits withdrawn by order of Chilian officers.*	5,302 15 00		Aug. 18, 1887	Incompetent.
76	John Briggs	Tacna	Sundries		3,955.00	Aug. 2, 1887	Disallowed, English arbiter dissenting.

* Also $228,295, Peruvian paper dollars (very little value).

List and amount of claims presented to and decided by the Anglo-Chilian tribunal—Continued.

No.	Name.	Where.	Character of claim.	Amount.	Amount in silver dollars.	When decided.	Decision.
				£ s. d.			
77	Thomas Chapman	....do	Animals, etc	4,219 7 7		Aug. 25, 1887	Disallowed.
78	Campbell, Jones & Co	Mollendo	Merchandise	78 18 00		Aug. 18, 1887	Do.
79	....do	Arica	Hides		$10,600.00	Sept. 15, 1887	Do.
80	....do		Dynamite taken from the ship *Knight Templar.*		1,376.02	Aug. 18, 1887	Incompetent.
81	Jefferson & Co	Quilca	Merchandise	77 19 00		Aug. 26, 1887	Ordered to be filed.
82	John Jefferson	Arica	Furniture and effects	1,278 00 00		Oct. 11, 1887	Disallowed. English arbiter dissenting.
83	William Sutherland	Cajamarca	House and jewelry		7,900.00	July 18, 1887	Do.
84	James Canny	Pascopampa	Animals		1,420.00	Oct. 11, 1887	Allowed.
85	Anthony Delolme	Chorillos	House and property	30,000 00 00			Disallowed.
86	The Lima Railway Co	Callao	Import duties	1,388 12 3			Withdrawn.
87	Francis A. Kelly	Papellan de Pica	House and property		21,162.00		Settled outside of tribunal.
88	James Taylor	Pisagua	Property		4,000.00	July 7, 1887	Disallowed.
89	W. S. McClellan	....do	....do	275 00 00		June 27, 1887	Ordered to be filed.
90	Andrew Jackson	....do	Merchandise	100 00 00			Settled outside of tribunal.
91	James A. Clarke	Mollendo	Property	85 12 00			Do.
92	Barclay Burns	....do	Personal property	29 3 4			Do.
93	Francis Boyd	....do	Property		1,358.00		Do.
94	Archibald Barclay	....do	....do	195 00 00			Do.
95	J. Jefferson, R. Smart, and J. Robillard.	....do	Lighters and buoys		1,235.00	June 27, 1887	Ordered to be filed.
96	James O'Connor	....do	Furniture		1,809.00		Settled outside of tribunal.
97	W. A. Smith	....do	Wine	91 4 00			Do.
98	J. W. Lonergen	Arica	Furniture	2,060 00 00			Withdrawn.
99	Jefferson & Co	....do	Office, etc	2,700 00 00		July 4, 1887	Ordered to be filed.
100	Julia Maclean de Outram	Tacna	Losses		8,525.00	....do	Do.
101	David White	....do	Personal property		1,914.50		Settled outside of tribunal.
102	Benjamin G. Chapman	Cañeta	Sundries	2,108 11 1			Do.
103	Thomas Keppel	Supe	Clothing		2,209.00	July 4, 1887	Ordered to be filed.
104	Henry Gray	Payta	Furniture		2,044.00		Settled outside of tribunal.
105	Ibbotson Bros. & Co	Chimbote	Hardware	109 10 00			Do.
106	A. T. White	....do	Clothing		1,530.94		Do.
107	Campbell, Outram & Co	Pisagua	Coal, etc		10,000.00		Paid and withdrawn.
108	Wholey Bros	Ancon	Property	851 8 00			Settled outside of tribunal.
109	John Farmer	Chorillos	House and furniture	3,000 00 00		Aug. 8, 1887	Disallowed, English arbiter dissenting.
110	Frederick Ford	....do	Furniture	1,000 00 00		....do	Do.
111	Dr. Maclean's heirs	....do	Death of the doctor	10,000 00 00		....do	Ordered to be filed
112	Thomas E. Dallas	....do	Furniture	2,162 10 00		Sept. 22, 1887	Do.

113	Edward Irving	Callao	do		732.50		Settled outside of tribunal.
114	Crown Perfumery Co	do	Perfumery	143 13 00		Sept. 22, 1887	Ordered to be filed.
115	Frederick Buzaglo	do	Duties		3,197.60		Settled outside of tribunal.
116	Susana Flecknoe	Chorillos	Death		20,000.00		Incompetent.
117	A. M. Fisher	Miraflores	Property	875 00 00			Ordered to be filed.
118	Mrs. Mercedes Reid	Chorillos	do		32,435.00	Sept. 15, 1887	Incompetent.
	Total			1,034,028 14 3	1,246,268.92		

NOTE.—For sake of convenience counting the pound as $5 (although it is worth more than that in silver), the 118 claims would amount to $6,416,410. The secretary of the tribunal had reduced the pound at $7.50 to paper currency, which was wrong.

Disposition of claims submitted to the Anglo-Chilian tribunal.

		In pounds.	In silver dollars.
60	Claims disallowed	99,735	$959,989
11	Thrown out on account of incompetency of the tribunal	860,355	159,742
14	Ordered to be filed (papers not in proper shape)	19,683	19,452
13	Allowed	4,131	57,420
	Total	983,904	1,196,603
20	Settled outside of tribunal for $100,000 silver	50,125	49,666
118		1,034,029	1,246,269

Or in dollars, at $5 to the pound, $6,416,410.

Taking the one hundred and eighteen claims, amounting to $6,416,410 (counting $5 to the pound), on which was allowed $178,075, or 2.78 per cent.

Deducting from the one hundred and eighteen claims ($6,416,410) the eleven thrown out by the tribunal ($4,461,517) on account of incompetency, leaves $1,954,893, upon which the tribunal allowed $78,075, and outside of same $100,000; a total $178,075, or 9 per cent.

Twenty claims settled outside of tribunal ($300,291). Allowed, $100,000, or 33 per cent.

Under the presidency of Señor Lopez Netto on the tribunal seven claims out of twenty-five were allowed. Under the presidency of Señor Lafayette Rodriquez Pereira five out of thirty-five were allowed. Under the presidency of Baron d'Andrada out of thirty-five none were allowed.

Résumé.

Twenty-five claims decided under Señor Lopez Netto; 35 claims decided under Señor Lafayette R. Pereira; 35 claims decided under Señor Baron d'Andrada; 3 withdrawn (one of them paid); 20 withdrawn, settled outside of the tribunal.—Total, 118.

No. 131.

Mr. Roberts to Mr. Bayard.

[Extract.]

No. 166.] LEGATION OF THE UNITED STATES,
Santiago, November 11, 1887. (Received January 4.)

SIR: Cholera has again made its appearance in Santiago. For the week ending November 5 forty cases were reported as proving fatal, nineteen on yesterday and fourteen the day previous.

It has extended to the south of Chili during the winter months, and has been particularly severe in some sections.

It is the general impression that it will prove as destructive to life in Santiago and its environs as it was last summer, though the Government and people are much better prepared to meet it in a sanitary point of view.

It is quite possible that our commerce and mails by way of Panama may be again obstructed in consequence. The chargé d'affaires of Colombia notified the Chilian Government on the 8th instant that his Government would not permit vessels from Chili to enter her ports for the present. So long as Peru keeps her ports open the mails will be sent there, and from thence to Panama; but should Peru follow the example of Colombia, and in all probability she will, then the South

Pacific will again be closed to our commerce, our mails, and our travelers.

Whatever justification Peru may have for closing her ports, Panama in my opinion has none. It takes twenty days for a mail steamer to reach Panama from Valparaiso; if there was infection on board it would show itself during the trip, and the vessel could very properly be quarantined or refused admittance; if there was not, and the vessel could show a clean bill of health, then she should be permitted to enter port.

I have, etc.,

WILLIAM R. ROBERTS.

No. 132.

Mr. Roberts to Mr. Bayard.

[Extract.]

LEGATION OF THE UNITED STATES,

No. 168.] *Santiago, November* 30, 1887. (Received December 27.)

SIR: In dispatch No. 166, November 11, I had the honor to advise the Department that the cholera had re-appeared in Santiago, and that the Government of Colombia had closed her ports to vessels sailing from Chili. On the 16th instant I wired to you a dispatch reporting the closing of the ports of Colombia to arrivals from Chili; that the deaths in Santiago were but ten daily, the cholera being of a mild type, easily controlled, and that the action of Colombia appeared to be unwarranted by the facts and injurious to American interests, not justifiable, and should not be permitted to continue.

On the 23d instant I telegraphed you again to the effect that all Chilian ports were free from cholera, and that as Peru had refused to accede to the Colombian request that Peruvian ports should be closed against Chili, Panama refuses all communication.

And on the 29th as follows:

BAYARD, *Washington:*

Peru closes ports.

ROBERTS.

I hesitated before sending the first dispatch, but believing the information of importance to the Government and perhaps to the public, I concluded to send it; my chief object, however, in cabling to you was the hope that the influence of the United States Government would be successfully exerted in preventing the Colombian Government from closing the port of Panama to vessels from Chili.

Not alone, however, has the Government of Colombia closed her ports to vessels from Chili, but she has succeeded in compelling Peru and Ecuador to pursue a similar policy, under the threat that a refusal on their part would be followed by a decree of prohibition such as that issued against Chili.

That the Government of Colombia would be justified in submitting vessels from Chili to quarantine regulations is beyond question, but the absolute prohibition of ships, merchandise, and even the mails, is without reason or justice, seeing that it takes twenty days to reach Panama by steamer from Valparaiso.

The steam-ship lines bound to run to Panama from the south coast will

receive the subsidy of the Chilian Government as though they performed the service for which they are subsidized, as they are not responsible for the failure to perform their part of the contract, and it will simply transfer the commerce crossing the isthmus to their own steamers running to and from Europe; the gain therefore is altogether on their side and the losses altogether on ours. There are other influences which may also have operated, but I mention this one for your consideration.

The fact that cholera is likely to be an annual visitant of South America for years to come presents to the United States a very serious problem, as to whether the Government of Colombia shall at its discretion under some plausible pretext prevent free transit across the Isthmus of Panama whenever cholera, small-pox, or some other epidemic shall make its appearance on this coast. I am thoroughly of the opinion that other influences than sanitary ones have operated in the present case and may operate again, and we can not too soon meet this question, which so deeply concerns our interest and our prestige on this hemisphere.

I hope to have this dispatch taken by the *City of Pueblo*, that reached Valparaiso to-day and leaves to-morrow for San Francisco, Cal., in which case it will reach Washington, accidents excepted, within twenty-five days.

In future I may have my dispatches forwarded by way of Europe, as the surest and perhaps the swiftest route during the embargo at the isthmus.

As yet the deaths from cholera in Santiago are averaging about twenty daily. So far as known the disease has not increased since then throughout the country. About 30 per cent. of the persons infected die, and the number of deaths among the well-to-do classes is greater than it was at the beginning of this year, but there is an entire absence of the excitement and panic which were so general on its first appearance in Chili.

I have, etc.,

WILLIAM R. ROBERTS.

No. 133.

Mr. Bayard to Mr. Roberts.

No. 73.] DEPARTMENT OF STATE,
Washington, December 5, 1887.

SIR: This Department is constantly in receipt of communications from citizens of the United States having claims against the Government of Chili, who manifest impatience at the delay that has occurred in the adjustment of their demands. They have been told that the difficulties attending the proceedings of the arbitration tribunals to which claims of the citizens and subjects of certain governments have been submitted, and the failure of those tribunals to reach a satisfactory decision on the cases before them, made it expedient for the Government of the United States to seek, even if it involved delay, a more promising basis of settlement than that which other governments had accepted and found so defective.

From recent advices it seems not improbable that at an early day (if, indeed, it has not already been done) a compromise of the claims before the arbitration tribunals will be agreed to by some or all of the governments in interest.

It seems, therefore, to the Department that it would not be expecting too much for the Chilian Government now to take into consideration the negotiation of a convention for the adjustment of the claims of citizens of the United States against that Government; and you are authorized to say that the Government of the United States regards such a measure as desirable and likely to promote the good relations of both countries.

I am, etc..

T. F. BAYARD.

No. 134.

Mr. Roberts to Mr. Bayard.

No. 171.] LEGATION OF THE UNITED STATES,
Santiago, January 6, 1888. (Received February 25.)

SIR: I have the honor to inclose translation of protocol for the settlement of French claims against Chili, amounting to about $3,400,000.

I am, etc.,

WILLIAM R. ROBERTS.

[Inclosure in No. 171.—Translation from the Diario Oficial, No. 3191, December 31, 1887.]

MINISTRY OF FOREIGN RELATIONS.

Whereas the national Congress has given its approval to the following protocol:

At a meeting in this department Señor Miguel Luis Amunategui, minister of foreign relations of Chili, and Mr. Arthur Lanen, envoy extraordinary and minister plenipotentiary of the Republic of France, being authorized by their respective governments, have agreed to the following:

1. To approve the arrangement which the accredited agents of the one and the other country before the arbitration tribunal have entered into for the canceling of the eighty-nine claims submitted to its decision, for the sum of 300,000 Chilian silver dollars, to be paid by the Chilian Government within fifteen days after the approval of this agreement by the national Congress, from which sum 6 per cent. is to be deducted, which, according to the convention of November 2, 1882, is to be applied to the expenses of the aforesaid tribunal, and in consequence of which the said claims remain extinguished.

2. The envoy extraordinary and minister plenipotentiary of the French Republic will receive the referred to sum, and will distribute it among the owners of the eighty-nine claims in amount, mode, and form he may deem proper, without the Government of Chili having any responsibility in its distribution.

3. That it remains expressly established that the Government of Chili has effected this friendly arrangement with the object of bringing to a prompt conclusion the claims pending, and without this arrangement affecting either directly or indirectly the principles and jurisprudence which the Government of Chili has maintained and sustained before the arbitration tribunals.

In testimony whereof they authorized this with their signatures and seals in duplicate, in Santiago, the 26th day of the month of November, 1887.

MIGUEL LUIS AMUNATEGUI. [L. S.]
A. LANEN. [L. S.]

And whereas, it having been heard by the council of state, it has been deemed proper to approve and sanction the same:

Therefore, let it be promulgated and brought into effect in all its parts as law of the Republic.

SANTIAGO, *December* 30, 1887.

J. M. BALMACEDA.
MIGUEL LUIS AMUNATEGUI.

No. 135.

Mr. Seibert to Mr. Bayard.

No. 180.] LEGATION OF THE UNITED STATES,
Santiago, February 15, 1888. (Received April 12.)

SIR: I have the honor to inclose herewith copies of the notes exchanged between the British minister here and the Chilian minister of foreign relations, relating to Chili's liability for a portion of the Peruvian foreign debt, and the Grace-Aranibar contract, as published in the Diario Oficial, and also a translation of the same.

I am, etc.,

C. M. SEIBERT.

[Inclosure 1 in No. 180.—From the Diario Official, February 3, 1888.—Retranslation.]

Mr. Fraser to Señor Amunategui.

SANTIAGO, *December* 28, 1887.

MR. MINISTER: In the conversation I had the honor to have with you this morning, you asked me to send in writing a memorandum of the two communications relating to the subject of the Peruvian creditors and their claims on the revenue of Tarapaca, which Her Majesty's secretary of state for foreign affairs had expressed to me the desire that I should place to the knowledge of the Government of Chili.

I now take pleasure in so doing, in as nearly as possible the same terms as my instructions.

1. In view of the willingness of the Peruvian Government to take its proportional share in the arrangement of the Peruvian debt, Lord Salisbury indicated to me the desire that by means of friendly representation I should try to induce the Chilian Government to make some proposition for the discharge of its responsibility respecting the hypothecate claims on the Province of Tarapaca, and in this manner to put an end to the constant complaints of British creditors.

2. The bond-holder's committee having called the attention of Her Majesty's Government to the fact that Peru has been compelled to abandon an agreement already concluded, for the liquidation of the Peruvian foreign debt, simply because the Government of Chili did not approve of that agreement, the Marquis of Salisbury has instructed me by telegraph to ask that the Chilian Government be good enough to explain exactly in what its objection to the Grace-Aranibar contract consists, in order that this contract may be modified in reasonable terms, according to the meaning of these objections.

Improving, etc.,

HUGH FRASER.

[Inclosure 2 in No. 180.—From the Diario Official, February 3, 1888.—Translation.]

Señor Cuadra to Mr. Fraser.

SANTIAGO, *February* 2, 1888.

SIR: I have received your note dated December 28, 1887, in which you were pleased to send me a written memorandum on the instructions you received from Her Majesty's secretary of state, and which have for their object:

1. To induce the Chilian Government by means of friendly representation to formulate some proposition in discharge of its responsibility to the hypothecate claims that may affect the Province of Tarapaca, thus putting an end to the losses of British creditors; and

2. To point out the precise objections which the Grace-Aranibar contract suggests to the Government of Chili, adjusted in the past year by the representatives of Peru and the Peruvian bond-holders referred to by you.

The simple exposition of the facts will be sufficient to satisfy your wishes, and to form a correct opinion of the antecedents relating to the two points mentioned.

From the official documents of Peru, dated immediately before the declaration of the war, it is shown that the total foreign debt of that country at that time was £32,960,706, of which sum £11,141,580 pertained to the loan of 1870, and £21,546,740 to the loan of 1872, and £272,386 to the bonds of the Pisco and Ica Railway and those called New

Granada and Ecuador. Consequently the bonds from the loans of 1870 and 1872 form the foreign debt of Peru. The said loans had for their object the construction of railroads, irrigation of public lands, and other national works.

It may be of interest to know the origin, development, and legal consequences of the referred-to loans, in order that the controversy raised by the creditors of Peru can be judged with correctness.

By the act of January 15, 1869, the Government of Peru was authorized to issue bonds to pay for the construction of the railroads "from Arequipa, Puno and Cuzco from Chimbote to Santa and Huarez; from Trujillo to Pacasmayo and Cajamarca; from Lima to Jauja, and such others as the Republic may need." The said act did not authorize the Government to mortgage the guano deposits of the territory.

On January 19, 1870, the representative of Peru contracted with Dreyfus Bros. & Co., for the placing of the loan for the sum of £11,920,000, and in article 4 of said contract it was agreed as follows:

"As security for the payment of the interest and principal of such loan, the Government affects (*afecta*) all the revenue of the nation, and especially the receipts of the custom-houses of the Republic and the proceeds of the sale of guano in Europe, America, etc." In the bonds emitted in compliance with the said contract, it is said in article 6 "that the Government of Peru under the faith of the nation affects (*afecta*) the fiscal receipts of the Republic, and especially the net proceeds of guano, etc., the railroad from Arequipa, etc., and the customs revenue of the country."

There is nothing in the law (act) authorizing the loan of 1870, nor in the contract with Dreyfus, which was its result, nor in the text itself of the bonds, that provides for the mortgage of the guano deposits of Peru, neither in the informal way in which later on the bonds of the loan of 1872 were issued.

The Government of Peru affected (*afectó*) the property of the nation in general declarations and in terms current in that kind of contracts, as promises of honor, but it does not constitute a real mortgage.

The act of January 24, 1871, authorized the Peruvian Government to construct the railroads of Cuzco, Cajamarca, and Ancachs, of Puira and Trujillo to Huamachuco, and the prolongation of the Oroya railroad to the city of Ayacucha; and for this it was authorized to contract a loan of £15,000,000, of which sum £2,000,000 were to be applied to irrigation works on the coast of the Republic. The said law does not authorize the Government to hypothecate the guano.

On January 7, 1871, the Peruvian Government contracted with Dreyfus Brothers & Co. for the placing of this loan. Article 4 of said contract says: "As security for the payment of the interest and sinking-fund of this loan, the Government affects (*afecto*) all the income of the nation, now created or to be created, and especially (1) the proceeds of the sale of guano, etc., (2) the railroads and works of irrigation, and (3) the receipts of the customs revenue, etc."

At the issuing of this loan an attempt was made to raise it to £36,000,000, excess over the £15,000,000 to be applied to the payment of the Peruvian loans of 1865 in England, of 1866 in the United States of America, and of 1870 in Europe. This procedure was publicly objected to, and the stock exchange reminded that the text of the law authorized a loan of £15,000,000 only, and not one of £36,000,000, declared the excess of the issue illegal, and the contractors at that time obtained the placing of only a relatively small amount.

In the issuing of this loan, which was attempted to exceed in the sum of £21,000,000 and which at the end was exceeded by £6,546,740, neither the formula of the act, in the printing of the bonds, nor the clear and precise terms of the contract of July 7, 1871, emanating from the said act, were observed. The following was printed on the bonds: "The Government of Peru, under the faith of the nation, *mortgages all the existing guano beds of the Republic, and especially all the guano deposits,*" etc.

The procedure which inspired the attempt of an illegal issue was applied to the test of the bonds, printing on them a mortgage which did not exist, neither in the contract nor in the respective act, and which was established by the issuers of the loan, who were at one and the same time the consignees of guano and the providers of funds of Peru.

The Peruvian Government could not mortgage the guano existing in the Republic, because the acts of 1869 and 1871 did not confer that authority, and because the contracts entered into by said Government for the placing of both loans did not stipulate any mortgage lien whatever on the properties of Peru.

The imposition of the mortgage lien on the bonds of 1872 was a procedure unauthorized in its origin, irregular in its form, and completely null and void in its results.

It is hardly necessary for me to observe that a mortgage of a State in favor of private parties does not and can not exist. International law does not recognize the formula accepted, nor tolerates any other for the constituting of this kind of liens. Neither can it be said that there exists a civil mortgage to which the rules of private international law are applicable, because in the issue of the bonds of 1872 all the legal conditions are wanting to establish a real mortgage.

And this is a doctrine founded on fact, and on authorities which it is opportune to state (to recall to mind).

On July 1, 1875, the Peruvian Government suspended absolutely the service of its foreign debt, and the creditors of Peru, in presence of such situation, agreed to reduce to one-half the rate of interest first stipulated, agreeing, moreover, that the Peruvian Government might take from the proceeds of the guano £700,000 yearly to attend to its own proper expenses. In this manner the creditors of Peru, who claimed to have preferred rights and liens, acknowledged the primary right of Peru to attend before all else to the expenses of its own existence.

Notwithstanding the obligations imputed to the Peruvian Government in the text (drafting) of the bonds of 1872, and the agreement of 1875, which explained the extent of the guaranty stipulated on said bonds, the Government freely disposed of the guano and in the form that it believed most advantageous to the interests of the State. It was for this reason that the bondholders repaired to the courts of London, Paris, and Brussels against the consignees who sold the guano for their own account and benefit and of the Peruvian Government.

The supreme court of London declared "that the bonds issued by the Peruvian Government did not contain any hypothecate responsibility, but simply promises of honor which did not constitute obligatory contracts before any tribunal of a foreign country, not even before the common courts of the country that issued them without the consent of that country." The court of appeals of Paris declared that "from the repeated expressions of *compromiso, garantia, assignacion hipoteca jeneral* and *especial*, showed that the Peruvian Government had only pledged in a general manner like an ordinary debtor to the service of one of its loans the resources and faculties, designating without including on the other hand those of another nature which might pertain to it, and that the movable character of the things offered as guaranty excludes all hypothecate right, etc.," and concluding by condemning the claimants to pay all costs of appeal as well as the costs of the first instance. The court of justice of Brussels gave a like decision and for analogous reasons.

The conflict of interests produced by the Peruvian bondholders with the consignees engaged by Peru for the sale of guano resulted, as is seen by judicial action, that the pretended hypothecate rights of the bondholders was universally disauthorized, and that, too, by the highest judicial authority of the nations where the referred-to bonds circulated.

But to these declarations, as well founded as irrevocable, there are also added explicit declarations of the English Government with regard to the line of conduct which it had laid out in view of the special claims of the bondholders.

On February 26, 1878, Mr. James Croyle, president of the committee on Peruvian bonds, sent a note to Her Majesty's secretary of state, Lord Derby, saying that the committee proposed to send an agent to Peru, to act near that Government at the time Congress was in session, for the purpose of coming to an equitable arrangement for the bondholders, whom he represented, asking for this purpose the protection and official support of Her Majesty's Government. He asked, moreover, if, in case the bondholders could not obtain justice from the Peruvian Government, and if it had resolved to extract the guano directly and on its own account, they could count on the assistance and protection of Her Majesty's Government.

The reply given to this petition is as follows:

"MINISTRY OF FOREIGN AFFAIRS.
"*March* 9, 1878.

"SIR: With reference to your letter of the 26th ultimo, I am authorized by Lord Derby to say to you that Her Majesty's Government *can not give any official support to the Peruvian bondholders*, because such procedure would be contrary to *rules established in analogous cases*, but Lord Derby will be pleased to instruct, if you so desire, Her Majesty's minister in Lima to give such *extra-official* aid as he may deem best to the agent your committee may send there. With regard to the last paragraph of your letter I must say to you that Her Majesty's Government can not take upon itself to counsel the bondholders, and still less a portion of the bondholders, as to their legal rights in view of the bonds and the decree of November 14, 1873, and if the bondholders adopt a procedure in violation of Peruvian laws, or of the country, they can not count upon the aid of Her Majesty's Government.

"JULIAN PAUNCEFOTE.

"To Mr. J. CROYLE."

A few months later the Marquis of Salisbury was called to the ministry of foreign affairs, and the committee resolved to make another attempt before the new minister, and here is the reply:

"MINISTRY OF FOREIGN AFFAIRS,
"*May* 12, 1878.

"SIR: I am authorized by the Marquis of Salisbury to acknowledge the receipt of your letter of the 30th ultimo, in which you urge upon Her Majesty's Government to

adopt certain measures in protection of the Peruvian bondholders, and to say to you that Lord Salisbury feels sorry that Her Majesty's Government does not permit him to render more assistance to the bondholders than that which it has already given them.

"I am, sir, your obedient and humble servant,

"JULIAN PAUNCEFOTE.

"To Mr. CROYLE."

Such was the status quo at the breaking out of the war between Chili and Peru.

After the war was undertaken, and the territory of Tarapaca was occupied by our forces, the Chilian Government granted to the Peruvian creditors the extracting and selling of guano by paying a royalty of £1 10*s.* sterling per ton. This was the first money the said creditors received for many years in payment of their credits, and as was natural they gave their full consent to this concession.

By the decree of February 9, 1882, the preceding decree terminated, and 50 per cent. of the net proceeds from the sale of 1,000,000 tons of guano was ceded to the Peruvian creditors whose titles were sustained by the guaranty. Mr. John Proctor, sufficiently empowered by the committee of Peruvian bondholders, accepted the dispositions of the decree alluded to, in the name of the creditors representing £25,838,370.

This voluntary concession from the military occupant of Tarapaca was ratified at the signing of the treaty of peace by Chili and Peru, which ended the war.

The two States that executed this compact were free and sovereign, and these agreed that the Peruvian creditors should only have the option of 50 per cent. of the profits from the *deposits known and actually worked*, for "the products of deposits to be discovered in the future in the ceded territories shall exclusively belong to Chili." The Government of the Republic covenanted with the Government of Peru and not with its private creditors; therefore i is not permitted to any individual creditor of that Republic to address the Chilian Government soliciting modifications of a solemn international treaty.

There is not a leading consideration of an ineludible character in the controversy raised. Chili obtained Tarapaca in payment of her war expenses and in compensation due the sacrifices which that imposed. If Peru agreed to bases of concession in form affecting its private creditors, to it belongs the obligation with third parties. All other understanding of the exercise of the sovereignty of a state would be irreconcilable with the laws and independence of nations: The power of a State to terminate war and to make peace, the faculty, in conformity to international law, to cede a part of its territory, although this may affect individual creditors, and although for them its solvency may diminish or compromise private property. It is true that the cession of territory may produce detriment, but the detriment of a State caused by war or a disorderly or unscrupulous administration, or by internal revolutions, or by economical mistakes, necessarily affects its creditors, no matter what may have been the condition when the debts were contracted or the special liens which these affected.

I consider myself excused to invoke examples and indisputable authorities that confirm the right of the victor to become unconditional owner of a part of the enemy's territory that may be required to recompense the expenses of the war and to guard its future security. But it will be well to remember that the loans of 1870 and 1872 had for their object the building of railroads and other national works which absorbed the sum of 82,000,000 silver soles, employed in benefiting territory only which Peru conserved, without ever spending a single pound sterling in Tarapaca. This weighty circumstance united to the general form and mere promise of honor which the bonds of the Peruvian debt carry makes all reasonable discussion with the bondholders unsustainable.

The Government should have desired, however, to grant to the Peruvian creditors the right to extract and sell for its account the guano of Tarapaca, in which they participated, by the paying of a royalty on each ton. This was a mere internal administrative measure, having for its object to take off the Government's hands the necessarily discretional administration of the extracting, loading, freighting, and consigning of the guano. But by announcing this idea to those interested they imagine perhaps that there was an implicit acknowledgment of pretended hypothecate rights, and that the hour had arrived to formulate exactions completely unfounded.

Not meeting the expected acquiescence in the Chilian agents, the bondholders applied to the committee of the stock exchange of London, and under pressure obtained the postponement for three months of the official quotation of the bonds emitted in payment of the saltpeter certificates which Chili acknowledged to English and French citizens and other European nationalities. To the committee of the stock exchange belongs the announcing of the grounds of justice, or even equity, which induced it to favor the English creditors of Peru by such unusual procedure, to the damage of English creditors of Chili, which always has paid all its public obligations.

Without desiring to do so perhaps, it has adopted a resolution which mainly inter-

ests Englishmen, who in the past honored Peru and who to-day honor Chili with their confidence, but which does not compromise Chili's credit, for this does not depend upon the directory of the London stock exchange, nor on the Peruvian creditors, but upon the stability of her institutions, the administration of her resources, and the punctuality with which it has always fulfilled its promises.

Your suggestion for the Chilian Government to formulate a proposal in favor of the Peruvian creditors has come at the very moment when these employ aggressive proceedings against the creditors of Chili, and as much for this circumstance as for the foregoing considerations my Goverment believes that it should limit itself, in that which may concern the Peruvian creditors, to the faithful compliance with the treaty of peace of October 20, 1883.

It remains for me to announce the opinion of the Chilian Government on the Grace-Aranibar contract.

Article XV of the contract says, concerning guano, that *the committee shall respect the conditions of the treaty of peace between Peru and Chili in reference to the extracting* (esplotacion), whilst the treaty of peace speaks of *extracting and sale* (esplotacion i venta). Attention is drawn to the omission of the words "and sale," in order to avoid mistakes and to establish the truth of the matter.

In Article XIX of the same contract the committee declares that it will cancel the one-half of the Peruvian foreign debt, and will retain the other half, without responsibility as to Peru to recover the same from others interested, thus giving to understand that this last half would be recovered from Chili, as already suggested in the prospectus of the business. It was necessary to observe that in all agreements between the Peruvian Government and the holders of its foreign debt it should be clearly established that no more responsibilities be imputed to Chili than expressly mentioned in articles 4, 7, and 8 of the treaty of peace.

The Peruvian Government had to acknowledge these formulated observations made before it, as nothing less could follow their justice and origin.

Other observations have likewise been made to the Peruvian Government, but in official form and good friendship.

By the Grace-Aranibar contract Peru delivers to the committee all its railroad property for the term of sixty-six years, cedes the mines of a vast region, adjudicates to it the ownership of 1,800,000 hectares of land in the most fertile provinces of the Republic; the lands to be selected by the committee. It gives, moreover, 180 hectares of land for each family that emigrates to its territory; concedes all the guano it may have in its dominions; makes it the direct collector of the receipts of the most important custom-houses; authorizes it to establish a bank of issue, with privilege to emit bills, for twenty-five years, the bank to receive directly all national taxes from the treasurers and collectors of the State. Peru covenants, in fact, concessions which import the diminution of her sovereignty and the economic absorption by its creditors.

The especial and delicate international condition of Chili and Peru after the late war, and our sincere desire for the reconstruction and progress of the Peruvian Republic, induced my Government to express its opinion on the Grace-Aranibar contract, affirming its conviction that no contract between Peru and its creditors will be reasonable if that country does not conserve the full exercise of its autonomy for the administration of the State and the preferred right to the revenue necessary for the maintenance and services of the Republic.

I cherish the hope that Her Majesty's Government, so respectful to the laws of nations, and always animated by a rectitude which has won for it such special considerations in this austrial region of the continent, will find that my Government has done as much for the Peruvian creditors as counseled by its spirit of equity and the compromises contracted during the war and after in its legitimate closing.

I have, etc.,

P. L. CUADRA.

No. 136.

Mr. Seibert to Mr. Bayard.

[Extract.]

No. 181.] LEGATION OF THE UNITED STATES,
Santiago, February 24, 1888. (Received April 12.)

SIR: I have the honor to inclose herewith a translation of the protocol signed by the representatives of Chili and Italy, by which all the claims of Italian subjects against Chili not acted upon by the international

tribunal, two hundred and sixty-one in number, were settled for the round sum of 297,000 Chilian silver dollars, and a translation of President Balmaceda's message to Congress setting forth the number and amount of the various Italian claims, either decided by the tribunal, withdrawn, or settled, and recommending the approval of the protocol.

The Congress by a subsequent act approved the protocol and authorized the payment of the amount therein mentioned to the Italian representative, which has already been complied with.

By this settlement of the Italian claims the international tribunals established between various European Governments and Chili have ceased to exist.

The only claims against Chili arising out of the late war, still unsettled, are those of United States citizens and of Spanish subjects.

I am, sir, etc.,

C. M. SEIBERT,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 181.]

Translation of protocol.

Señor Miguel Luis Amunategui, minister of foreign relations of Chili, and Count Fabio Sanminiatelli, minister resident of His Majesty the King of Italy, at a meeting in this department, and being authorized by their respective Governments, have agreed to the following:

1. To settle all the claims, two hundred and sixty-one in number, still pending before the Italian-Chilian tribunal upon the terms agreed to by the agents of both Governments accredited before the arbitration tribunal for the sum of 297,000 Chilian silver pesos (dollars), which the Chilian Government shall pay within the fifteen days following the approval of this agreement by the Congress of Chili, deducting 6 per cent. from this amount, which, according to the arbitration convention, is to be applied towards the expenses of the said tribunal; thus canceling and wholly extinguishing the said claims.

2. The minister of His Majesty the King of Italy shall receive the aforesaid sum of $297,000 (Chilian silver pesos), and shall distribute it among the owners of the said claims without this distribution affecting in any manner whatever the responsibility of Chili.

3. It remains especially established that this voluntary and direct arrangement has been effected by the Chilian Government for the purpose of bringing the pending claims to a speedy close, and without affecting, either directly or indirectly, the principles and jurisprudence maintained by the tribunal and sustained by the Government of Chili.

In faith whereof the Chilian minister of foreign relations and the Italian minister resident have signed the present protocol in duplicate, and sealed with their respective seals.

Done in Santiago de Chili, the 12th day of January, 1888.

MIGUEL LUIS AMUNATEGUI. [L. S.]
F. SANMINIATELLI. L. S.]

[Inclosure 2 in No. 181.]

Translation of President Balmaceda's message to Congress with reference to the Italian claims.

FELLOW-CITIZENS OF THE SENATE AND CHAMBER OF DEPUTIES: The claims brought forward by Italian subjects by reason of the war on the Pacific and submitted to the consideration of the tribunal, constituted by the arbitration commission of December 7, 1882, represent 6,769,856.31 silver soles, and £127,644.4.7. Reducing the last to the first-mentioned money at the rate of 38 pennies to the peso (dollar), it is equivalent to 806,173.93 silver soles, which, added to the $6,769,856.31, makes a total 7,576,030.24 silver soles as the total sum of all the referred to claims.

The interest on this sum, calculated for the space of five years at 5 per cent. per annum, amounts to $1,894,007.60 in the same money.

The claims from which the Chilian Government has been absolved, or to which it has been condemned by the decisions of the Italian-Chilian tribunal, amount to $830,843.30, with $207,710.80 interest, calculated at the rate and for the time above mentioned.

The claims which the tribunal has not yet been able to take into consideration amount to $5,200,621.78, and the interest as aforesaid to $1,300,155.44.

The only claim that was settled by a direct understanding between the Government and interested party amounted to $1,973.67, the interest on which sum, calculated on the basis mentioned above, is $493.91.

The sum of $1,542,591.59, remaining after deducting from the total amount of the claims the amount decided by the tribunal, the amount it has not been able to reach, and the one closed by direct settlement, represents the claims which the tribunal has declared itself incompetent to take into account, or which have been withdrawn by the parties interested, the interest on which would amount to $385,647.90.

The amount which Chili is to pay by virtue of condemnatory decisions is $70,326.31 in capital and $21,942.36 in interest.

The money in which all the foregoing amounts have been expressed is the silver sol, at the rate of 38 pennies. (Here follows a reduction of the various amounts mentioned into Chilian currency at 75 pennies the peso, which is immaterial.)

The preceding data show the advantage accruing to the treasury by the agreement contained in the protocol. In effect, supposing that the proportion in the amount represented by condemnatory sentences in future of all pending claims, over which the tribunal would have to decide, were the same as the sentences given to date, the new decision would put an obligation upon the State of not less than $435,000 silver; that is to say, the State would have to pay $138,000 more than the sum fixed in the present transaction.

In the desire to put a definite termination to all matters that trace their origin to the last war, by which it is pretended to derive responsibilities against our country, my Government has gladly accepted the idea to settle, by the payment of a round sum, all claims yet pending the decisions of the Italian-Chilian tribunal, and by virtue of which it has arrived to an agreement with the representative of His Majesty the King of Italy in the adjoint protocol, which having been heard by the council of state, I have the honor to submit to your approval.

J. M. BALMACEDA.
P. L. CUADRA.

SANTIAGO, *January* 26, 1888.

[Inclosure 3 in No. 181.]

Decisions of the Italian-Chilian tribunal.

[In decisions marked with an * the Italian arbiter dissented from the opinion of the majority of the court.]

No.	Name.	For what claimed.	Value.	Remarks.
7	José Cecchi	For levying a forced money contribution by Chilian officers, May, 1881.	$1,000.00	Allowed.
22	José Piazze	For destruction of two houses in Mollendo, March, 1880.	10,000.00	Disallowed.*
101	Luis Marcone	For destruction of property on five farms and in Ancon.	19,000.00	Do.
12	Juan B. Sanguinetti	Losses by the bombardment of Pisagua.	70,000.00	Dismissed.
16	Angel Mazzari	For destruction of his hotel at Casapalca.	15,107.00	Disallowed.
58	Eduardo Costa	For depredations by Chilian soldiers on his farm near Lima.	6,068.00	Allowed $3,000.
59	Juan Cuneo	ditto	6,495.00	Allowed $1,000.
60	Luis Arata	Destruction of two houses and merchandise in Cañete.	8,700.00	Disallowed.
63	Balth. Colombo	Destruction of crops on his farm near Lima.	1,710.00	Disallowed.*
68	José Paggi	Destruction of farm	5,100.00	Do.
		Property and personal injuries	12,000.00	
61	Angel Astengo	Losses on his farm by Chilian soldiers.	4,600.00	Allowed $2,300.
62	Pedro Gazzola	Destruction of his property in Lunahuana, December, 1882.	23,600.00	Disallowed.

Decisions of the Italian-Chilian tribunal—Continued.

No.	Name.	For what claimed.	Value.	Remarks.
26	J. Carlos Serra	Destruction of property in Arica.	$2,852.30	Disallowed.*
28	José Vignolo *et a*	do	6,000.00	Do.
70	A. Barchiese	Destruction of a fishing-boat in the bay of Callao.	1,800.00	Disallowed.
87	José Caprile	Destruction of his property at Tacna.	1,493.20	Do.
144	Lorenzo Navaro	Destruction of his property in Callao.	8,493.70	Disallowed.*
24	Marcelo Gullino	Destruction of his property in Arica.	8,432.09	Do.
69	Lorenzo Taccione	Destruction of a fishing-boat and other property.	2,600.00	Disallowed.
123	Pedro Cota	Destruction of property at Tacna and other places.	1,665.40	Do.
13	José Bergtagliatti	Destruction of five houses in Pisagua by bombardment.	21,500.00	Dismissed.
17	Pablo Monteverde	Destruction of property in Callao.	3,000.00	Allowed $2,000.
146	Santos Padovani	Destruction of property and house.	20,000.00	Disallowed.*
178	Antonio Blotte	Destruction of property on his farm.	4,000.00	Do.
31	Manuel Bozzano	Destruction of property in Pisagua.	1,060.00	Do.
76	Antonio Bocca	Destruction of farm near Callao.	15,450.00	Do.
147	Federico Granier	Destruction of property in Callao.	3,839.03	Do.
20	José Fetta	Destruction of property at Tacna.	16,000.00	Dismissed.*
21	José Barabino	Destruction of property at Mollendo.	5,000.00	Disallowed.*
23	Miguel Denigri	Destruction of property in Pisagua.	48,000.00	Do.
98	Estaban Casasa	Destruction of property in Tacna.	1,157.90	Do.
99	Alberto Padesta	Destruction of property in Matucana.	3,308.60	Disallowed.
124	Juan Gabba	Destruction of property in Tacna.	10,545.00	Disallowed.*
205	Jacinto Gibelli	do	320.80	Filed for want of proof.
207	Natalio Savio	Destruction of property in Jaguay.	3,180.60	Do.
239	Juan Languases	Destruction of property near Lima.	910.00	Do.
14	Morfino Richini & Co	Losses by the bombardment of Pisagua.	35,000.00	Disallowed.*
71	José M. Balbi	Destruction of his property in Chorillos.	28,500.00	Do.
72	Fidel Giovanini	do	43,054.00	Do.
180	Constantino Dodero	Destruction of his property in San Luis de Cañete.	12,860.00	Disallowed.
185	Juan Bruno	Destruction of his fishing-boat at Chorillos.	1,100.00	Do.
188	José Molino	Destruction of his house at Chorillos.	8,629.00	Disallowed.*
209	Pompeyo Baggioli	do	21,500.00	Do.
212	Eduardo Piaggio	do	7,500.00	Do.
232	Francisco Novello	Destruction of his house at Cañete.	4,500.00	Disallowed.
262	Schiaffino Bros	do	24,400.00	Dismissed.
30	José Botto	Destruction of property by the bombardment of Pisagua.	115,000.00	Disallowed.*
131	José Bartoletto	Destruction of property in Tacna.	1,012.48	Dismissed.
140	Gregorio Miano	Losses in Lima	6,000.00	Disallowed.
161	Andres Barreta	Losses in Callao	8,000.00	Do.
172	Andres Figari	Losses in Pisagua	4,014.00	Disallowed.*
194	Nicholas Gambetta	Destruction of farm property, etc., at Torata.	4,960.00	Allowed $500.
201	Estaban Berrisso	Property taken from his farm near Lima.	3,860.00	Allowed $800.
223	Jeronimo Consigliere	Losses at Cañete	15,470.58	Disallowed.
224	Jorje Veacava	Losses at Lunahuana	12,000.00	Disallowed.*
294	Francisco Elena	Losses at Jauja	2,205.00	Disallowed.
295	Bautista Maresca	Destruction of his paper-mill in Callao.	5,000.00	Disallowed.*
339	José Morello	Losses on his farm near Lima	12,000.00	Disallowed.
338	Carlos Grimaldi	Destruction of his hotel at Pacochaca.	4,493.30	Disallowed.*

Decisions of the Italian-Chilian tribunal—Continued.

No.	Name.	For what claimed.	Value.	Remarks.
360	Francisco Ottone	Destruction of his farm near Lima.	$6,800.00	Disallowed.
263	Dolore Hernandez (widow)	For the death of her husband at Chorillos by Chilian soldiers.	30,000.00	Disallowed.*
218	Vicente Rosso	Losses of farm property near Lima.	11,700.00	Awarded $800.
5	Julio Zanelli	Losses by bombardment of Pisagua.	£206 1 3	Disallowed.*
32	Antonio Cadamestori	do	$6,500.00	Do.
40	José Cartese	do	5,500.00	Do.
158	Antonio Capelleti	do	12,000.00	Do.
82	Francisco Barbero	Destruction of his property in Lima.	2,600.00	Awarded $400.
183	Juan Damonti	Destruction of three boats at Chancai.	3,959.00	Dismissed.
235	Milio Rossi Corsi	For payment of extra duty	700.45	Do.
269	Luis Costa	Destruction of farm property near Miraflores.	1,600.00	Disallowed.
278	Luis Assereto	Sacking of his store at Pecay	705.80	Dismissed.
272	Juan Bailletti	Loss of six mules and five horses.	1,700.00	Do.
280	Alf. Gambarini	Sacking of his saloon and store at Ica.	655.00	Disallowed.
381	Luis Segalerba	Sacking of his property at Concepcion.	8,165.70	Dismissed.*
335	Fernim Eterno	For goods furnished to Chilian soldiers.	2,078.50	Dismissed.
337	Juan Solari	Destruction of his property on the island of San Lorenzo.	13,723.00	Do.
342	Manuel Molfino	Destruction of wines and liquors.	13,200.00	Do.
350	Damian Mustigo	Property destroyed by Chilian soldiers.	1,787.00	Disallowed.
351	Felipe Diego Schiattino	For sacking his property and imprisonment.	£45,438 14 4	Dismissed.
365	Andres Picasso	For the sacking of his store at Huancatango.	$15,000.00	Do.

Besides the above there were forty-eight claims ordered to be filed, for want of proper papers, the amounts of which were not given in the Diario Oficial, in which the decisions of the tribunal appeared.

To the Italian-Chilian tribunal were also three Belgian claims submitted, amounting to $5,639.80 and which were all dismissed.

It will be noticed that the sum total of Italian claims as given in the message of the President to Congress (inclosed herewith) exceeds the figures given in dispatch 133, May 11, 1887, also taken from the Diario Oficial at about that time.

In the preceding list of decisions of the Italian-Chilian tribunal, it will be noticed, that like the Anglo-Chilian tribunal, not a single award is made for the destruction of property at Miraflores or Chorillos, occasioned either during or after the battle at those places.

C. M. S.

No. 137.

Mr. Roberts to Mr. Bayard.

[Extract.]

No. 184.] LEGATION OF THE UNITED STATES,
Santiago, March 22, 1888. (Received May 22.)

SIR: My two months' leave of absence having expired on the 17th instant, I returned to the legation, much improved in health.

I have thought that a brief account of my observations during my trip, with some general information pertaining thereto, may not be uninteresting to the Department.

I passed a few weeks at the mineral baths of Colina, in the mountains, which are noted for the cure of rheumatic affections, with excellent results. After leaving there, I visited for a few weeks the estate (hacienda) of an American friend, observing the system of agriculture and life among the rural population, and as my friend was a local magistrate I had excellent facilities.

From there I went south, visiting en route Concepcion and Talcahuano. The former is a very pretty city, the third in importance in Chili, with a population of 25,000. It has one of the best colleges in Chili, with education at the expense of the Government, a very handsome new opera-house built by the municipality, a fine cathedral, and several of the largest stores in Chili for the sale of general merchandise, besides some excellent hotels.

Talcahuano, with a population of a little over 5,000, is within a few miles by rail and is the principal port for the export of wheat; formerly it was much frequented by American whalers, but whaling is no longer profitable in the South Pacific.

The Bio-Bio, the most historic river in Chili and the largest, runs near both cities. It was formerly deep, with a powerful current, but it is now a placid water-course of some 500 feet in width, with scarcely enough of water in its tortuous channel to float a whale-boat, and all owing to the total and absolute destruction of the timber in that section of country through which it runs. It was on its banks that the Spanish adventurer Peter Valdivia fought, with varying fortunes, the brave Araucanians for the possession of Chili, and it was there that the Spaniards in 1818, after years of disastrous fighting, totally routed the Chilian army under O'Higgins, to be followed by their defeat and almost annihilation later on in the same year, by Generals San Martin and O'Higgins, at the battle of Maipo, a victory that secured the independence of Chili.

From Talcahuano I crossed the bay on a small steamer owned by an American, to Tome, a summer resort some 20 miles across. It formerly shipped all the wheat exported, but railroads have changed all this, and its chief commerce now is in Chilian wines, mostly claret.

There are several very large wine "bodegas" or warehouses at Tome. One of them that I visited contained three hundred thousand gallons. One now in course of erection it is calculated will hold one million gallons. I saw a cask that held a thousand gallons. The casks are mostly made in Germany and put together here. On asking why they did not buy them in the United States, the reply was, the prices are too dear. This is almost a universal answer to similar questions, and I doubt not a true one in the main; in fact my own experience and observation confirm it.

Chilian claret sells from $2 an aroba (5 gallons) to $10 for the best; it is very good and for the most part pure. When three years old it is an excellent claret, very much superior to the French, with the exception of a few choice brands. Scarcely any French clarets are drunk here, the native claret having almost entirely taken its place within a few years. Chili with its soil and climate, is bound to be a vast wine-growing country, and vineyards of the best European vines and on the best system are being largely planted.

Notwithstanding the great production of wine at present, it is not enough to meet the home consumption, for claret is universally used at table in Chili. Everybody drinks claret who can buy it.

Tome is a very old town, with a population of 5,600. It is noted for the honesty of its inhabitants; nobody ever thinks of locking

doors; it is a common thing to see the street doors open at night. There is a custom-house, post-office, an iron pier 1,000 feet long by 50 wide, and a military band performs on the plaza, near the pier, in the evenings. Nearly all the towns here with a few thousand inhabitants have a band, and the Chilians are remarkable for their wonderful aptitude at learning to play on instruments. I have seen two companies of artillery drilling in the park at Santiago to the bugle notes of two little boys on horses, whose little legs scarcely covered the horses' backs.

The chief mill in Chili for the manufacture of woolens and cloth is located at Tome. It employs at times as many as five hundred hands, and the army and police of Chili are supplied with cloth from its looms.

From Tome I returned to Talcahuano and took steamer for the south, calling first at Coronel, a coaling port with large coal mines. From there I went to Lota, one of the most noted places in Chili. It belongs to Señora Cousiña—the entire port, with extensive coal mines, several mills for the manufacture of common glassware, plain and fancy tiles, red and yellow bricks and iron-work, and about 100,000 acres of land. In the mines and works over two thousand men are employed throughout the year.

The park which surrounds the chief dwelling, or rather castle, which is now being rebuilt, contains from 300 to 400 acres, and is one of the most beautiful perhaps in the world. It is on a high cliff about 200 feet above the ocean, which incloses it on three sides. Nature has done much for it, but art, money, and labor have done more; grottos, lakes, ravines, arbors, chain suspension bridges, everything that is rare in plants, shrubs, trees, flowers, birds, or animals that could be had in any part of the world is to be found here.

The mines here, like all the coal mines in Chili, extend under the ocean, and the quality of the coal in all is similar. It is rather soft, of poor heating power, with a heavy smoke, something like our coal in the Ohio valley. At present it is delivered on board of vessels in the harbor at $10 a ton, the highest price it has commanded for years; the lowest it has ever brought was $4.75, and the average price is from $6 to $7 a ton of 1,000 kilograms, (about 2,100 pounds). English coal sells at present in Valparaiso at £2 2*s.* a ton of 2,240 pounds, equal to about $19 of Chilian paper currency. From Lota I went to Lebu, another coaling port rather prettily situated, and from there to Valdivia, the seat of the much-talked-of German settlement in Chili.

The population of the town is between 5,000 and 6,000, mostly Germans and their descendants, while that of the province of Valdivia is about 33,000, and similar in character to that of the town. While the German colonists are highly appreciated, the fault found by the Chilians with the Valdivia colony is that it continues German in sentiment, language, and national feeling, rather than Chilian. I am inclined to think, however, that this is more in appearance than reality and that prosperity and freedom will in time make good citizens of them.

Valdivia is noted for its lager beer, large quantities of which are shipped to all parts of Chili; also for its apple cider, the only place in Chili where it is made, and for its sausages and hams, which sell at Santiago for 50 cents a pound. It is also noted for its rains; the saying is that it rains thirteen months in every year in Valdivia.

The steamer on its trip south delivered large quantities of general merchandise at all the ports touched, but nothing to denote it came from the United States save a quantity of burning fluid. On her return trip from Port Montt to Valparaiso she took large quantities of sawed lumber, potatoes, wines, four large scow-loads of lager beer in barrels

at Corral, besides one hundred and fifty head of Argentine cattle, which had been fattened at Valdivia.

In the silver and copper mines in the vicinity of Santiago, which I have visited, the miner receives from $1 to $1.25 a day, but generally earns more on piece-work; besides this he receives daily a ration of beans or a pound of good bread, and all he can eat at mid-day of a stew composed of cracked wheat, sun-dried beef (called charque), onions, potatoes, and beans, and a pound of fresh beef or mutton three times a week, and his lodging.

Coal-miners earn from $1 to $1.50 a day, and "putters" (those that bring the coal from the mines to the surface) from 80 cents to $1, house free, and get one-third ton of coal each month, for which 50 cents is deducted from their pay.

In Santiago a laborer receives 80 cents to $1 a day, and a brick-layer and carpenter $2. Rents for working people are very low, as the buildings in which they live are of adobe, cheap and poor.

Near Santiago a laborer on a hacienda receives 40 cents a day when employed, a ration or pound of bread and beans, house rent free, and an acre of ground for vegetables, but far from the cities he receives 10 cents less a day, but receives grass for two cows or two horses, as he may prefer. When the "patron" has work they must give him the preference. Farm labor is becoming scarce in Chili and the pay is sure to advance.

The working people are hardy, nervous, and energetic. They are patient, tractable, and respectful, but not servile, and become attached to their haciendas and patrons. As a rule they do not live long, and a large percentage of their children die young.

As to land, it is generally held in large tracts, except in the foreign settlements of the South. A thousand acres is considered a small farm, and 3,000 or 4,000 is an average, while many haciendas contain 10,000 or 12,000. The church haciendas are, or were, very large, but fear for the future security of possession has caused many of these to be divided up and sold.

All the principal families of Chili own, through inheritance or purchase, large haciendas, on which they reside about three months in the year, and from which they receive large incomes.

Farming in Chili is the most certain and profitable business in it where irrigation is obtainable. The melting snows bring down from the Cordilleras a rich sediment, which manures the ground, constantly adding to its soil, and irrigates the growing crops.

The grasses are natural, varied, and nutritious; also a white and yellow clover, alfalfa, sown on coarse, gravelly lands or in beds of dried-up water-courses, is inexhaustible, and gives three heavy green crops a year. Wild oats grow everywhere in Chili, and after a wet or snowy winter on the Cordilleras the sides of these mountains are covered with luxuriant crops of it, growing 8 or 10 feet high. I have a bundle of it in my house brought from a place near 4,000 feet above the level of the sea; it is 8 feet high; the grain, however, is very small.

Wheat and barley are the two staple crops. Barley sells here from $3 to $4 the "fanega" of 155 pounds; wheat from $3.75 to $4 a "fanega" of 160 pounds. Oxen are universally used for draught and bring, in fair condition, from $50 to $60 each; when fattened for the butcher they sell according to weight and condition. Large numbers of oxen are brought from the Argentine when the snows melt in the summer, and fattened here. Butchers' meat is not retailed by the pound as with us, nor is it cut up in the same way; it is sold by the piece.

All the meat consumed in Santiago is slaughtered for so much a head at the "matadero" or municipal slaughter-house, the receipts for which for the month of December amounted to very near $13,000. The number and kind of animals slaughtered were as follows: Horned cattle, 5,700; calves, 100; sheep, 8,500; lambs, 2,500; and hogs, 550—a large consumption of meat food for a population of 190,000.

I have, etc.,

WILLIAM R. ROBERTS.

No. 138.

Mr. Bayard to Mr. Roberts.

No. 84.] DEPARTMENT OF STATE,
Washington, April 17, 1888.

SIR: Representation having been made by our chargé at Bogotá that the Colombian Government has entirely closed the isthmian ports of the Pacific to vessels coming from Chili, owing to fear of infection by cholera, thus prohibiting the passage of the mails, and several complaints on this subject having come from your legation, the matter has been brought to the attention of the Postmaster-General.

His views are substantially that, while this is the first instance known of an absolute exclusion of the mails as a sanitary measure, yet, inasmuch as the ordinary precautions of disinfection, etc., have never proved entirely effective in preventing the spread of cholera, he considers that, despite the inconvenience caused by the action of the Colombian Government, we shall have no tenable ground of complaint if the ports are opened as soon as the danger of infection ceases.

This Department is, however, disposed to regard the Colombian measures as extreme and at variance with international usage, not to speak of the transit question involved.

Your telegraphic dispatch asking that mails for your legation be sent via England has been transmitted to the Post-Office Department, but the Department has as yet received no reply. We are informed that, at present, they are being forwarded via Buenos Ayres, increasing the time of transmission by about five days.

I am, etc.,

T. F. BAYARD.

No. 139.

Mr. Roberts to Mr. Bayard.

[Extract.]

No. 192.] LEGATION OF THE UNITED STATES,
Santiago, May 3, 1888. (Received July 25.)

SIR: The President and cabinet returned to Santiago on the 1st of April, a special session of Congress having been called for the 2d to ratify an amendment to the constitution, permitting the free exercise of all religious creeds, which was approved of three years previously by

Congress, as required by the constitution. There was but one month remaining of the time in which it had to be ratified.

Scarcely had the discussion in Congress commenced when a rupture occurred in the cabinet. Señor Zañartu, minister of interior, resigned in consequence of some misunderstanding with the President. Within a few days the entire cabinet retired from office, and a few weeks more passed before a new cabinet was announced.

In the meantime the proposed amendment to the constitution was abandoned for the present. It is said that, in consideration of this, the church will reconsecrate the cemeteries and recognize the civil marriage laws.

As soon as I received official notice of the appointment of the new cabinet from Señor Demetrio Lastarria, the minister of foreign relations, I called to pay my respects, but he not being in his office, I then called upon President Balmaceda, who received me very cordially, as usual. I was accompanied by the secretary of legation, and Señor Quadra, minister of interior, was with the President and remained during the interview.

After some general conversation I said: "Mr. President, I called to pay my respects to the new minister of exterior, Señor Lastarria, at whose appointment I am very much gratified, but was not fortunate in finding him in his office. My intention was to have a conversation with him on the subject of the claims of American citizens resulting from the war with Peru. It was also my intention to mention the matter to your excellency, in order that you might learn directly the views of my Government, with the hope that the minister may be prepared to discuss the matter fully when I should have the honor to call on him for that purpose.

"The administration of President Cleveland," I said, "has abstained from presenting these claims for consideration, from a desire not to embarrass the Government of Chili while negotiations were pending with European Governments for the settlement of similar claims, but now that these have terminated by settlement, my Government, naturally solicitous for the interest of its citizens, who for some time have been pressing their claims upon its attention, would like to negotiate for the appointment of a commission for their adjustment, believing also that such a settlement would promote the good relations existing between the two Governments."

The President replied that he was very glad to hear what I said, but that tribunals were a very expensive means of settlement. I replied that I did not see how a convention for the settlement of our claims could be very costly; that our claims were few, and the gross amount was not large; the questions that would necessarily arise in their adjustment were not likely to lead to protracted discussion, and that for many reasons, which doubtless the President could well understand, my Government preferred to settle them through a convention.

The President again repeated, "Tribunals are very costly."

I said: "Mr. President, I hope before I leave Chili to be instrumental in settling all questions in dispute between the United States and Chili, so that there will be no questions pending which could possibly interfere with the continuance of the most cordial and friendly relations between the two countries." To which he replied that he hoped it would be so.

I have, etc.,

WILLIAM R. ROBERTS.

No. 140.

Mr. Seibert to Mr. Bayard

No. 201.] LEGATION OF THE UNITED STATES,
Santiago, July 17, 1888. (Received August 25.)

SIR: Since my last dispatch on the delays and irregularity of the mails from the United States, instructions Nos. 84, 85, and 86 from the State Department have been received. As each of these came by a different route, I will give the dates of receipt, etc., as a matter of information. No. 84, dated April 17, arrived at Buenos Ayres on May 29, as indicated by the post-office stamp on the envelope. On May 30 it was restamped for transmission, overland, to Chili, arriving at Los Andes, on this side of the mountains, on June 30, and the following day, July 1, at Santiago, seventy-five days after being mailed at Washington. Several other letters and a few newspapers were also received on that day. As instructions Nos. 81, 82, and 83 are wanting, as nearly all newspapers between the dates of April 7 and 27, it is supposed these are detained in the mountains, as it is known here that a number of mail bags with correspondence from the United States are snowed in and will arrive when the pass is again open.

No. 85, dated May 5, coming, as it appeared by the post-mark, by way of San Francisco, Cal., was received on July 5 (sixty-one days).

No. 86, dated May 10, via England, arrived here on the 15th instant (sixty-six days).

As the Panama route was known to be open in New York on June 1, as we are informed by a gentleman who left that city on the day mentioned, and arrived here the first week of this month, it is hoped that the mails for Chili have ere this been forwarded via Panama, as Minister Roberts, in his dispatch, No. 188, dated March 31, requested the mails to be sent via England only "as long as the Panama route was closed."

It may be interesting to the Department to know the fate of five bags of correspondence which left Valparaiso for Central and North America, on January 29, 1887, just at the breaking out of cholera in Santiago, and did not reach their destination.

From the "Consular correspondence" published in the Diario Oficial of the 12th instant (eighteen months after the occurrence) it appears that the authorities at Panama declined to receive the mail bags and that the steamer *Cordelia* took them to Acajutla, Salvador; there the postmaster, after being unsuccessful to have them re-embarked upon one of the Pacific mail steamers, carefully and solemnly "buried them in the bottom of the sea, and in the presence of many witnesses."

The referred to article is inclosed herewith. It will be remembered that dispatches Nos. 118 and 119, January 27 and 28, 1887, as several other letters from this legation, were amongst the correspondence thus destroyed.

I have, etc.,

C. M. SEIBERT,
Chargé d'Affaires ad interim.

[Inclosure in No. 201.—Extract from the Diario Oficial of July 12, 1888.]

SANTIAGO, *July* 11, 1888.

The port of Panama being closed to vessels from Chili, on account of the epidemic (cholera) which prevailed in that country during the early part of the year 1887, the

postmaster at Valparaiso availed himself of a trip made by an English steamer to the port of San José de Guatemala for the purpose of sending correspondence, and to that end five mail bags, containing letters and printed documents for Central America, the Antilles, Mexico, the United States of America, etc., were placed on board of the said steamer (the *Cordelia*) on the 29th of January of that year.

As that port was likewise closed for the same reason, the said steamer delivered the correspondence in question to the post-office at Acajutla, Salvador.

Instructions were issued to the consul and postal agent of Chili at Panama to inquire what had become of that correspondence; and that officer addressed the postmaster of Acajutla, from whom he received the following reply:

"ACAJUTLA, *April* 23, 1886.

"I have received your very polite communication of the 5th instant, together with a duplicate of your letter of the 29th of October last, which, I regret to inform you, did not reach me, for what cause I know not. I therefore beg you to pardon my lack of attention in not replying to your aforesaid communication; believe me that if that communication had not been lost I should have regarded it as a great pleasure and a high honor to comply with your wishes, as I hereby do.

"The correspondence to which you refer and concerning which, through you, the postmaster at Valparaiso inquires, was delivered in this port by the captain of the steamer *Cordelia* to the agent of the Pacific Mail Steam-ship Company; this was not properly done, because the correspondence had been intrusted to the captain to be taken to San José de Guatemala in order that it might thus reach Panama; and as that correspondence came from a place where the cholora prevailed, my predecessor, in obedience to his duty, declined to receive it. The agent of the Pacific Mail Company did all in his power to get it placed on board of the steamers of the company which he represents in this port, but being unable to do so, he had recourse to my services when I took charge of this post-office; for that purpose he delivered to me the five mail-bags which I endeavored to place on board of one of the Pacific mail steamers, but after I had got them on board they were immediately returned, when it was found that they were from Chili. As I had unofficially taken charge of the correspondence in question, simply with a view to pleasing the agent, I was alarmed when I found that all the steamers of the line declined to receive it, merely on the ground that it was from Chili, in which country the cholera prevailed. I then realized the fact that I had taken a serious responsibility upon my shoulders, and desiring to meet that responsibility, I took the precaution to order that correspondence to be sunk to the bottom of the sea in the presence of many persons in this port.

"This measure seemed to me to be the most suitable, because, if I had endeavored to fumigate it, I should not have been able to do so without exposing the correspondence to violation, since it was not addressed to this country, and all the Republic might have become the victim of that scourge of mankind. Before taking this measure, I considered that the correspondence might be replaced, but that the victims to the disease, in case it broke out, could never be replaced. I thus reply to your two communications aforesaid, and with assurances of esteem and consideration, I take pleasure in signing myself

"Your obedient servant,

"ANTONIO EZETA.

"*To the Consul and Postal Agent of Chili at Panama, United States of Colombia.*"

No. 141.

Mr. Bayard to Mr. Roberts.

No. 87.] DEPARTMENT OF STATE,
Washington, May 26, 1888.

SIR: I have to acknowledge the receipt, on the 12th of March last, of Mr. Seibert's No. 181, of the 24th of the preceding month, in which he informs the Department that a protocol has been signed by the representatives of Chili and Italy by which all the claims of Italian subjects against Chili not acted upon by the international tribunal, 261 in number, were settled for the lump sum of $297,000, causing a saving to the Chilian Government of $138,000, compared with what it would have

been required to pay had the cases been decided by the tribunal. It is also stated that with the settlement of these claims the international tribunals established by the various European Governments have ceased to exist, leaving the claims of the United States and Spain the only ones still unsettled.

The decisions and awards of the tribunals in question appear to have been highly unsatisfactory, many of the claims before them having been withdrawn to be settled elsewhere, and unfinished cases, or those not yet reached, being settled by a lump sum. In a previous dispatch you state that there would have been a general protest against the action of the tribunals had it not been for the course of the German Government, which was the first to accept a lump sum in liquidation of its claims, and which is supposed to have done so to the advantage of the claimants, though definite information as to the terms of settlement has not been received.

As I informed you in my No. 73, of the 5th of December last, this Department is receiving constant complaints from claimants, who are not content with our answer that the appropriate moment for pressing their claims to a settlement has not yet arrived. To the suggestion made in your No. 96, of the 15th of October, 1886 (which in view of all the circumstances was adopted by the Department), that this Government would be in a better position for urging such claims after the work of the unsatisfactory international tribunals then in existence had been completed, reply is made that these tribunals are now defunct, and that there does not appear to be any good ground for further delay on the part of this Government. The first point to be considered is whether it would be more advantageous to American interests to submit the claims to an international commission, or to accept a lump sum to be paid to Chili in full discharge of all claims against her by citizens of the United States.

In the list of claims in your No. 42 of 14th January, 1886, there may be some susceptible of individual settlement, while others might be left to arbitration or settled by a lump sum.

With your knowledge of the character of the claims in question, it is hoped you will be able to agree with the Chilian Government on some acceptable plan of settlement free from the defects of the late tribunal.

It is desirable that this question be taken up and pushed to an issue as rapidly as possible.

I am, etc.,

T. F. BAYARD.

No. 142.

Mr. Bayard to Mr. Denby.

No. 227.] DEPARTMENT OF STATE,
Washington, September 5, 1887.

SIR: I have received your No. 422 of July 29, 1887, concerning the reduction of the likin tax on kerosene oil at Canton from $1.30 to 50 cents per case.

The Department is equally pleased as yourself at this very considerable reduction, and shares also in the gratitude which you express in behalf of the labors of Mr. Seymour, consul at that port, by whose instrumentality this reduction was largely effected.

You will convey to Mr. Seymour a suitable expression of the Department's thanks.

I am, etc.,

T. F. BAYARD.

No. 143.

Mr. Denby to Mr. Bayard.

No. 445.] LEGATION OF THE UNITED STATES,
Peking, September 7, 1887. (Received November 2.)

SIR: In further reply to your dispatch No. 207, of date June 14, 1887, I have the honor to report the conclusions that I have reached touching the "Ward estate claim" against the Chinese Government, and to ask further instructions.

Your dispatch inclosed a copy of Mrs. Amidon's petition as sole claimant against the Chinese Imperial Government in the matter entitled the "Ward estate claims" (inclosure No. 1); Senate Ex. Doc. 48, Forty-fifth Congress, second session (inclosure No. 2); Senate Report No. 1986, Forty-ninth Congress, second session (inclosure No. 3); a statement of the case, with voluminous exhibits appended, entitled Mr. Glavis to Mr. Bayard (inclosure No. 4).

In your dispatch you state that you explained to Senator Sherman that while the "Ward estate claims" were not separately considered in Ex. Doc. No. 48, Forty-fifth Congress, yet they were distinct from the two others there presented, namely, the "Ward claims" and the claim of Charles E. Hill for the charter of the steamer *Keor jeor;* that the latter two have been settled, the former by the payment of $56,246.56 in February, 1883, and the latter by a receipt from the Chinese legation, in accordance with the act of Congress approved March 2, 1885. You further stated "that the Ward estate claims were outstanding and that

the petition of Mrs. Amidon correctly represented the facts, as the Department understood them."

You state further "that, as the Chinese Government steadfastly denied the validity of the claims, all efforts to obtain an equitable settlement thereof were rendered fruitless."

You further call my attention to dispatch No. 74, of March 3, 1881, from Mr. Evarts to my predecessor, Mr. Angell, in which he endeavored to secure an adjustment of these claims after deducting the sum of 42,309 taels, but the result was again unsuccessful. China denied accountability and set off a counter demand against the the Ward estate.

You direct me to give the whole matter a thorough and careful investigation and to furnish you my conclusions "in connection with the papers now sent and the information already in the possession of your (my) legation, or such as you may be able to obtain otherwise, to the end that a final and effectual decision as to these claims may be reached."

You do me the honor to state that I am at liberty to present this claim to the Imperial Government without further authorization from you. You state that, if my conclusion should be favorable, yet, out of abundant caution, I should prefer to obtain your sanction prior to presenting the claim, I am at liberty to adopt this course.

You further do me the honor to state that it is your "desire to obtain the fullest possible authoritative examination of the subject, and to be guided by your (my) conclusions in the premises based on the inclosed documents and whatever information you may be able to gather from the legation's archives and elsewhere in China touching the validity of these claims."

A claim coming to me from you presented in so careful, complete, and peculiarly considerate a manner demands at my hands, and has to the best of my ability received, the most thorough consideration.

The rule as laid down in Wharton's International Digest, Volume II, section 213, for the determination of the question whether a diplomatic agent will be authorized to present a claim to a foreign government, is that the claim should be tested as a bill in chancery would be by a general exception for want of equity. But, under your instructions, I am to consider all the evidence bearing on the case that may be found in the archives of this legation or "elsewhere in China."

Under this broad delegation of authority, I shall present for your consideration a history of this case gathered from all sources. In connection therewith, and as bearing on the solution of the question whether the claim should now be presented by the Government of the United States to the Government of China, I shall call attention to the action of the representatives of our own Government in China on this and the other claims with which this one was involved up to the present time.

HISTORY OF THE WARD ESTATE CLAIM.

The general facts connected with this claim are historical. They may be briefly stated as follows:

The entry of General F. T. Ward into the military service of the Imperial Government of China, during the Taeping rebellion, in the winter of 1860–'61; his organization of a corps called the "ever victorious army;" his gallant and meritorious conduct in the field; his being mortally wounded in battle the 21st of September, 1862; his declaration, while his death was imminent, that the Taotai of Shanghai owed him 110,000 taels; the devise of this money by a verbal declaration reduced

to writing and attested by two British officers; his death, September 22, 1862.

The instrument mentioned is set out at page 5, Senate Ex. Doc. No. 48 (inclosure No. 2 in dispatch No. 207).

In inclosure No. 4 in your dispatch No. 207 the proof as to admissions of Woo that this was a just debt may be summarized as follows:

Albert L. Freeman, in statement No. 21 (inclosure No. 4), of date April 9, 1864, says:

> With reference to the claim of 110,000 taels against Woo (the old Taotai) and in favor of the estate of the late General Frederick T. Ward, I beg leave to say that shortly after the death of the general, and previous to the affairs of the estate coming into my hands, the claim was admitted to be correct to General Burgevine.

But he does not say who made the admission, nor does he state that he heard it.

He says that—

> The same acknowledgment was made repeatedly afterwards to me by Taikee, the Government banker, who represented the old Taotai as having fully acknowledged the amount of the claim but that a scarcity of money prevented its immediate payment. A promise was given that it should be paid on the return of the old Taotai from Nanking.

Messrs. Jenkins and Rodgers, in a letter dated April 13, 1864, and addressed to F. G. Ward, of which a copy is found in inclosure No. 4, exhibit No. 25, say:

> The claim for 110,000 taels due the estate of your son, the late General Ward, was laid before Messrs. Woo and Taikee when they met with us to discuss the various claims, and they admitted the same, but stated that they had (or became liable for) a sum of 30,000 taels (or Mex. $30,000, we are at this moment uncertain which) to apply against this amount.

By the dying declaration of General Ward, Admiral Hope and Mr. Burlingame were designated as his executors. They declined to act. With the assent of the creditors, Albert L. Freeman was appointed administrator. He duly qualified.

Before his appointment the following events had transpired, which are described in the letter of Mr. Seward to Mr. Twombley (p. 6, Ex. Doc. No. 48).

General Burgevine had succeeded Ward as commander of the "ever victorious army." When Burgevine was dismissed from his command he declined at first to acknowledge the right of the Taotai Woo to remove him. Afterwards he left the command but retained three steamers. Woo appealed to Mr. Seward to require Burgevine to give up the steamer *Confucius*. After consultation with Burgevine it was arranged that the steamer should be delivered under the terms of an agreement which is set out at page 9, Ex. Doc. No. 48. It provided for the payment of all claims which should be awarded by arbitrators, to be appointed, one by Seward and one by Woo, with provision for an umpire in case of disagreement. Under this agreement the *Confucius* was delivered up and Messrs. H. B. Jenkins and J. Kearney Rodgers were appointed arbitrators to hear and adjudicate all the claims against the Chinese Government growing out of the Ward transactions. One of the first acts of Mr. Freeman, administrator of the Ward estate, was to file before these arbitrators the claim for 110,000 taels.

The award of the arbitrators appears in the record as Exhibit No. 12. It was made at Shanghai, March 3, 1863, and contains the following entry:

> Claim 32, Bill 110, 110,000 taels, account of F. D. Ward.

At page 7, Ex. Doc. No. 48, Mr. Seward sets out at length the reasons why this award was not enforced.

It is unnecessary for me to copy his language here. Woo absolutely refused to pay any of the awards. Finally, on the 13th day of October, 1863, a new agreement of arbitration was made by Seward and Woo. The letter of Seward to Woo, fixing the terms of this arbitration and Woo's acceptance, are set out at page 10, Ex. Doc. No. 48. I call special attention thereto. Mr. Seward's proposal contains these words:

> Those claims which are declared not just or unsupported shall be dropped by the consul and never brought forward again.

Woo, in his acceptance, claims "that the account of Mr. Benson should be reckoned in connection with that of General Ward, and the dues on account of the former made available in settling the accounts of the latter. There is no reason in our being called on to pay money on account of General Ward first."

The arbitrators selected were Edward Cunningham and Thomas Hanbury. Mr. Seward (p. 4, Ex. Doc. No. 48) says:

> When the second arbitration * * * was agreed upon the claim of the estate was again submitted. I append hereto the decision of the arbitrators (pp. 4 and 5, Ex. Doc. No. 48).

It does not appear by whom the claim was submitted to the arbitrators. Presumably it was done by Mr. Freeman. He was still the administrator of Ward's estate. Mr. Freeman resigned his trust June, 1864.

With reference to the award (p. 5, Ex. Doc. No. 48), Mr. Seward says:

> They found the evidence on either side as submitted to them incomplete and insufficient, and were unable to reach an award.

It may be mentioned here, also, that this new arbitration and award is throughout this record bitterly attacked by the representatives of Ward's estate.

It is charged that there were verbal protests against the new arbitration before action by the arbitrators. But the record does not thoroughly sustain this charge.

The decision of the arbitrators was made December 26, 1863. The written protest is dated March, 1864, and was not delivered to Mr. Seward until November 14, 1864. At all events, Mr. Seward does not appear to have regarded the determination of the arbitrators as final. He seems to have looked on it as a dismissal without prejudice. We find that, after Mr. Freeman's resignation as administrator, Seward, in virtue of his general consular authority, continued to act as administrator of the Ward estate until Mr. Twombley was appointed.

Woo paid some of the claims allowed (see p. 13, Ex. Doc. No. 48) and refused to pay the balance.

Seward took steps to procure the report of Henry G. Ward as to the disposition of £40,000 that he had taken to the United States to be used in purchasing ships. But in the meantime, through the instrumentality of Mr. Burlingame, Ying, a former Taotai at Shanghai, had been appointed to take evidence and report at Peking. Upon meeting Ying, Seward found himself in the same condition that Freeman had been in, unable to account for the use of the £40,000 which had been entrusted to Henry G. Ward. Thus the matter had to rest until the accounts of Henry Ward could be had. In May, 1868, John T. Twombley was appointed administrator of Ward's estate. Henry Ward's accounts were furnished to Mr. Twombley. These accounts were laid before Woo in June, 1868, but he still refused to pay any sum of money.

One of the important questions in this case is to determine what claim, if any, the Chinese Government had against General Ward for moneys advanced during his life-time.

At page 19, Ex. Doc. No. 48, Woo gives his statement of this claim. It will be found in the dispatch of Prince Kung to Mr. Low, dated November 28, 1870. Prince Kung sets forth at length the account given by Woo of all his transactions with Ward.

I quote one paragraph in full:

> In March, 1862, the commander of the forces, General Ward, having received orders from the [acting] governor of the province (Sich Huan) to make an attack on Su-chan, Chang-Chan, and other places, wished to procure some foreign steamers and various sorts of guns and artillery. Yang and I, on getting the orders, succeeded in raising a loan in various places of 270,000 taels, which General Ward received and sent to the United States, in bills, but, after his death, not a ship or a gun was ever received in Shanghai. Further, the amount of $46,553 owed for arms and ammunition bought in England was never sent forward out of this sum.

Thus it appears that the charge that Ward had received 270,000 taels from the Chinese Government is here specifically described as money "which General Ward received and sent to the United States in bills," to be used for a specific purpose. The record now presented shows exactly how much money was received by Henry G. Ward for that purpose and what he did with it.

The account of Henry G. Ward adjusted by Jacob R. Telfairs (Exhibit 40) shows a balance of account against Henry G. Ward of 42,309 taels, which the claimant allows as a credit against the amount claimed.

From all the proof it does not appear that General Ward received from Woo 270,000 taels for the purpose specified, but that he received only two installments of £20,000 each. There can be no reasonable doubt that this money was accounted for as claimed by Henry G. Ward.

With regard to the claim of 34,570 taels set up by Woo and Taikee to purchase ammunition, it appears from Freeman's statement (Exhibit 21) that of this sum 12,000 taels were deposited with Olyphant & Co. to pay for ammunition, and was so applied. The items 5,000 taels and 17,500 taels appear to have been received from Taikee by the general and deposited with H. Fogg & Co., in whose account they appear to the credit of the general, and on the debit side of the same account there are several charges for munitions of war purchased in Shanghai, which would cover the amounts referred to.

The statements made by the claimant, page 5 of her petition, regarding the financial dealings of General Ward with the Chinese Government, I find to be substantially correct.

But the language of Mr. Seward (p. 89, Ex. Doc. No. 48) should be noted, of date April 30, 1877, which is hereinafter set out *totidem verbis*. The scope of it is that he had seen a Chinese paper which Woo said was a receipt for 270,000 taels signed by Ward.

The action of this legation as to the "Ward estate claim" may be summarized as follows:

May 12, 1864, Mr. Burlingame addressed to Prince Kung a letter giving a full statement of the claim and asking payment. Prince Kung replied that he had authorized Li, governor of Kiangsu, to investigate the matter (Exhibit 26). Mr. Burlingame wrote again, May 30, 1864, to Prince Kung, transmitting a statement of the general's father (Exhibit 27). July 27, 1864, Mr. Burlingame again addressed the foreign office on the subject (exhibit not numbered). August 11, 1864, Mr. Burlingame again wrote to the foreign office (exhibit not numbered). He requests Prince Kung to order Governor Li to examine only the account

mentioned in General Ward's will. Prince Kung replies that Governor Li has been ordered to select an officer to examine the accounts.

August 16, 1864, Mr. Burlingame addressed Mr. Seward (Exhibit 31) expressing his "unqualified conclusion that it (the claim) was just" and describing his action thereon.

Mr. Burlingame left Peking in March, 1865, and returned in October, 1866. During this interval nothing was done.

He left China in 1867, having made no further effort to adjust the claim.

Mr. Burlingame's successor, Mr. Ross Browne, did not take the case up.

Governor Low reached China in March, 1870. His action in connection with the Ward claims is fully set out in Ex. Doc. No. 48. In his letter to Mr. Fish (p. 15, Ex. Doc. No. 48) he says the "Ward estate claim has never been taken up by me officially."

July 7, 1870 (p. 17, Ex. Doc. No. 48), he addressed Prince Kung in favor of the payment of the sums awarded by the last arbitrators, Cunningham and Hanbury.

Prince Kung in reply (p. 18, Ex. Doc. No. 48) sends a statement of Woo, which is important and has already been quoted.

Governor Low does not appear ever to have presented to the Chinese Government the "Ward estate claim."

March 5, 1875, Mr. Fish stated to Mr. Avery that the claim of Fogg & Co. was meritorious * * * and "the arbitrators had made an award in favor of the claimants." Mr. Avery was directed to press this claim (see p. 22, Ex. Doc. No. 48). Nothing appears to have been done by Mr. Avery.

Mr. Seward succeeded Mr. Avery. Under date July, 1876, he wrote to Prince Kung. He says:

> These claims were submitted to arbitration at Shanghai and in the month of January, 1864, the arbitrators made their award. The award declared certain of the claims to be just (p. 23, Ex. Doc. No. 48).

Lengthy correspondence follows between Mr. Seward and the foreign office relating to the claims that were awarded but not to the "Ward estate claims."

In the minute of an interview of Mr. Seward with the foreign office (p. 57, Ex. Doc. No. 48) in presenting the Ward claims Mr. Seward says:

> He could not venture to adduce proof as to the merits of individual claims. They had all been decided upon in 1864 by arbitrators duly appointed, and their award could not be opened.

All through this discussion with the foreign office, Mr. Seward relies on the award (Ex. Doc. No. 48, *passim*, but particularly pp. 72, 73, 74, 75).

April 30, 1877, Mr. Seward addressed another note to Prince Kung. At page 88, Ex. Doc. No. 48, he makes a lengthy argument in favor of the award, setting up strongly its sanctity. On page 89 he uses the following language:

> There is no doubt that General Ward received money with which to buy steamers and munitions of war, neither is there any doubt that Woo held a Chinese paper with a stamp upon it which he said was Ward's receipt for 270,000 taels. He did show this paper to the arbitrators in my presence. But he entirely failed to show for what purpose this money was given to Ward. As it is well known that about 120,000 taels were given for the purchase of steamers, it was not singular that the arbitrators failed to rely upon it as evidence that 270,000 taels were given for the purpose.

He goes on to show that a considerable part of the 120,000 taels was spent in England. He alludes to the accounts of Henry G. Ward,

which had been exhibited to Woo. He claims that the claim of Woo against Ward's estate, or that of Ward's estate against Woo, has nothing to do with the claims of the seventeen merchants.

This whole statement will throw much light on the merits of this case.

Mr. Seward's conduct is approved by the Acting Secretary, Seward (p. 92, Ex. Doc. No. 48).

Under date June 7, 1877 (p. 95, Ex. Doc. No. 48), Mr. Seward notifies the Department that he has consented that the Ward claims may be referred to the viceroy at Nanking (p. 95, Ex. Doc. No. 48).

At page 102, Ex. Doc. No. 48, are set out the instructions of Mr. Seward to Mr. Holcombe, to control him at Nanking in reference to the claims to be presented and pressed. He directs Mr. Holcombe to present for allowance at Nanking the claims set out in his letter to Mr. Twombley, of March 22, 1872, which is presented at page 6 of Ex. Doc. No. 48. The "Ward estate claim" is not included in this list. It includes only the claims awarded by the arbitrators.

The result of the reference to the viceroy at Nanking is set out at page 106 *et seq.*, Ex. Doc. No. 48. The "Ward estate claim" was not set up or presented. Page 120, Ex. Doc. No. 48, Mr. Seward reports to the Secretary the result of the Nanking reference.

Mr. Evarts, in dispatch No. 203, date November 26, 1877, writes to Mr. Seward that Mr. Twombley has been urging "the necessity of having the Ward estate claim pushed, * * * alleging what appears to be a plausible reason for such action, namely, that should it be omitted from any settlement now made it will prove very difficult to secure for it any future consideration from the Chinese Yamên." (See p. 136, Ex. Doc. No. 48.)

Mr. Seward is directed to give this matter consideration.

In dispatch No. 399, of February 7, 1878, Mr. Seward replies to Mr. Evarts' dispatch No. 203. He states that he has not taken up the Ward claim for the reason "that the transactions out of which it originated may be considered, perhaps, to have been of a private nature, and to involve the responsibility of the * * * Chinese official Woo Taotai, rather than the Chinese Government."

He intimates that the evidence is not conclusive. He prognosticates failure, which he says would produce bad results, etc.

In dispatch No. 172, of date June 18, 1881, Mr. Angell reports his action on the Ward estate claim. By Department's dispatch No. 74, dated March 2, 1881, he had been directed to present it again to the Chinese Government. The dispatch informed him that the heirs proposed to deduct 42,309 taels from the amount claimed. He was to demand 67,691 taels, with interest from March 3, 1863, being the date of the first arbitration. He says:

> I made a thorough examination of the voluminous papers in our archives on the subject. I rose from that examination so impressed with the weakness of the claim as it was left by former negotiations that, had the Department's instruction left any room for me to act according to my own judgment, I should not have presented it.

He further considered that if any better showing could be made it might be well to present it and prevent its lapsing by neglect. He gives a history of the claim, and concludes that no very strong argument can be based on the fact that the first commission sustained the claim. He assumes from Mr. Seward's statement (p. 4, Ex. Doc. No. 48) that Henry G. Ward's account had been rendered, but he says that it seems from Prince Kung's reply that the Chinese had not seen it.

Mr. Angell incloses in this dispatch his dispatch to the foreign office and their answer.

In Prince Kung's reply you will notice the very ingenious manner in which Woo's admissions are avoided. Ward demanded 20,000 taels for each of five cities captured and when Ching was recaptured he asked for 10,000 more. Woo said, "Wait until we have a succession of military successes and we will abundantly recommend your services." And this, Prince Kung ayers, is all the foundation of the Ward estate claim.

The Prince argues with great strength that Ward expressed a hope "and not a recognized obligation."

He goes over the whole case. His paper should be read in order to understand thoroughly the Chinese position on this claim. He states strongly that when Mr. Seward "was promoted minister, in his frequent consultations with this office on the Ward and *Keor jeor* claims, he never referred to the Ward estate claim as one that needed to be settled separately."

During Mr. Angell's time nothing was done with this claim.

In Mr. Angell's dispatch No. 202, of date August 18, 1881, he recites another effort to secure the payment of the Hill and Ward claims, but it had no reference to the "Ward estate claim."

In Legation Archives, volume 34, Consulate Records, Shanghai, Seward, 1861–1863, appears a statement of the Ward estate claim, prepared by Frederick G. Ward, which is very full and complete. This statement accompanied the petition of F. G. Ward to the Chinese Government. It effectually disposes of the statement that the Chinese Government did not have before it the accounts of Henry Ward relating to the purchase of steamers in New York. The account presented, as set out at page 751 of this volume, is literally copied by me:

Taotai Woo to General Ward's estate, September 22, 1862.

DR.

	Taels.
To amount due at General Ward's death, admitted by Woo and which he promised to pay	110,000.00
To interest from date to June 21, 1864	23,175.00
To amount due H. Fogg & Co., for supplies furnished to the army, about	20,000.00
To interest to June 21, 1864, 21 months, at 12 per cent	4,200.00
Total	157,375.00

CR.

	Taels.	
1863. By net proceeds of sale of steamers in the United States $90,170.43, American currency, exchange 150 per cent	41,621.28	
Interest to June, 1864, 10 months, at 12 per cent	4,161.00	
		45,782.28
		111,592.72

Then follows a statement of the claim against Taikee. Attached to this statement are the following papers: Admiral Hope to F. G. Ward, June 20, 1864; Freeman to Hope; a copy of the general's will; memorandum of the general's cash account down to June 7, 1864; memorandum of disbursements of Ward while in command of the Chinese Imperial forces; account of W. H. Fogg & Co.; Taikee's account; Freeman's letter to Seward of April 8, 1864; list of claims against the Chinese Government allowed by Rodgers and Jenkins; letter of said arbitrators to Seward announcing their finding; letter of Jenkins and Rodgers to F. Ward, April 13, 1864, containing statement of Woo's admissions; Major Cook's affidavit; Twombley's affidavit; instructions of Tsung li Yamên to Ying; protest of Frederick G. Ward against the action of

Hanbury and Cunningham, not dated, but showing on its face that it was after the award; letter of Henry G. Ward to Frederick G. Ward, May 24, 1864; letter from same to same, same date; petition of Frederick G. Ward to the Chinese Government, going over the whole case.

The action of my immediate predecessor with regard to the Ward claims is fully reported in No. 167, Mr. Young to Mr. Frelinghuysen, of date March 22, 1883.

Mr. Young had succeeded in having the Ward claims and the Hill claim referred to the Viceroy Li Hung Chang at Tientsin.

In dispatch 102, of date January 13, 1883, Mr. Young gives a copy of his confidential instructions to Mr. Holcombe. It will be seen that no allusion was made to the Ward estate claim.

Mr. Young reports the settlement reached by Mr. Holcombe and the payment by the viceroy of $52,246.56. He says: "This payment is a settlement in full of what are known as the 'Ward claims,' principal and interest at 9 per cent." The Hill claim was not settled, but the record shows that Hill did not waive, nor did the minister, any of his rights. Mr. Young says he was anxious to settle these claims, because "the existence of the controversy was an embarrassment in our relations with China."

In his report to Mr. Young of his acts at Tientsin, Mr. Holcombe says:

I first acknowledged receipt in full, principal and interest, of all demands of citizens of the United States on account of the so-called Ward claims.

He further says:

Both of these last-named officials (the viceroys at Nanking and Tientsin) argued against the abstract validity of the claims, but proposed payment on the ground of the arbitrator's award and their friendly feeling towards the United States.

It is to be noticed, as Mr. Holcombe explains, that the Hill claim was rejected by the last arbitrators simply because it was not covered by the articles of arbitration, not being against Woo Taotai. Woo Taotai was in no wise responsible for the Hill claim. It was, therefore, not considered by the arbitrators. Mr. Holcombe claims, also, that the second arbitration was a mistake. But the fact that the Hill claim had been submitted to the arbitrators was forcibly used by the viceroy:

Li maintained that his action was beyond question; that he paid the Ward claims because the arbitrators declared they were justly due, and refused to pay the *Keor jeor* claim because the same arbitrators said it ought not to be paid.

Still Mr. Holcombe thinks that the fact of there being a surplus in our hands of the "Chinese indemnity fund" operated strongly on the mind of Li in refusing to pay the Hill claim.

In the memorandum of Mr. Holcombe it will be seen that he bases his claim for payment distinctly and solely on the award. Thus, "as the arbitrators decided that these claims should be paid in February, 1864, without interest, none is claimed on them prior to March 1, 1864."

The receipt given by Holcombe to Li is set out as inclosure 17 to Mr. Young's dispatch 167. It contains this language:

Received * * * the sum of * * * in full and final payment of all demands against the Government of China held by certain citizens of the United States, and commonly known as the Ward claims, the aforesaid amount being composed of an unpaid balance of an award in arbitration made by Messrs. Edward Cunningham and Thomas Hanbury upon the 18th of January, A. D. 1864. * * *

Of date February 22, 1883 (inclosure 18, No. 167), Holcombe writes to Li that he has received his communication stating that—

You are prepared to pay in full, principal and interest, the balance of the same declared to be due and owing in the Ward claims by the arbitrators, Messrs. Cunningham and Hanbury.

Inclosure 2 in dispatch No. 167 is a letter of Mr. Young to Li Hung Chang, of date March 10, 1883, in which he thanks his excellency for the "prompt and handsome manner in which he disposed of that long-standing question," etc.

It does not appear that anything has been done in the Ward estate claim since 1881.

The only other matter of any interest to be found in the archives is Mr. Young's letter to Mr. Twombley, of date November 26, 1883.

I quote the following:

> The Department of State simply acknowledged the dispatch of Mr. Angell, in which he expressed a strong disapproval of the validity of the claim (the Ward estate claim). Nor, so far as I can discover, has there been any instruction or suggestion from the Department directing the legation to pursue the claim. The only conclusion I can form is that the Department accepts the judgment of my predecessors, and has not deemed it wise to continue the discussion.

He says further:

> I do not find in the archives that you or any one concerned in the Ward claims showed the least interest in an affair which belonged to you and your co-beneficiaries alone.

For fear that it may be imagined that I have overlooked it, I abstract what is stated in the record about the "salt monopoly." In an affidavit made by H. N. Twombley August 16, 1863, he says that General Ward told him on several occasions that he had interest in the Government salt monopoly; that said interest was in the hands of Taikee, of Shanghai; that the value of the same was 100,000 taels. (Exhibit 22.)

Henry G. Ward, in an affidavit made August 18, 1863, says that his brother, General Frederick T. Ward, frequently said that he was the owner to the extent of 100,000 taels in the Government salt monopoly, and that he purchased the same through Taikee, and said also that he had deposited with Taikee a further sum of, "say, 50,000 taels, to be similarly invested." (Exhibit 22.)

REMARKS AND CONCLUSIONS.

This claim rests primarily upon the declaration of General Ward: "The Taotai of Shanghai owes me 110,000 taels."

For obvious reasons I do not regard this statement as furnishing a cause of action either against Woo or the Imperial Government. Tested by the rules of evidence, the statement of a decedent is not admissible in an action by the administrator. Tested by the circumstances surrounding Ward, and by the proven fact that Taikee did not owe him anything, the declaration can not be taken as accurate.

No paper, account, or voucher has ever been found which furnishes a basis for this claim. I do not see that the claim, which is based on hearsay, that General Ward had invested 100,000 taels or 150,000 taels in a salt monoply has any connection with the alleged debt. Besides, an accurate examination of his accounts has failed to bring to light the least foundation for this claim. The case rests nowhere except on the alleged admissions of Woo. Admissions are the weakest species of proof if uncorroborated by facts. The debt being characterized as Woo's debt, and the admissions being general and unexplained, it is questionable whether they bind the Chinese Government.

I append hereto, as inclosure 1, a copy in full of a letter of Mr. George F. Seward to Mr. Burlingame of date September 8, 1864, which is found in legation archives, volume 34, consulate records, Shanghai,

Seward, page 897, *et. seq.* I make it a part of this dispatch because it is not likely that there is a copy thereof in the archives of the State Department. It is a complete history of the Ward estate claim, given by a person who was better acquainted with all the facts than any other person, and who, by his nationality and his official position, must be regarded as friendly to the claimant.

He speaks of the admission of Woo as "supposed admission." He explains the peculiarity of the Chinese in stating mutual accounts. He shows the utter impossibility that General Ward in two and a half years, during the whole of which time he was engaged in fighting, could have amassed the half million of dollars claimed by his estate after his death. He dwells on the fact that there were arrears due to numerous merchants. He shows how the claim throughout is based on hearsay statements. But his letter must be read in full to get a correct understanding of it, and it is needless to attempt to furnish an abstract of it.

It is not for me to decide whether or not it was a mistake to set aside the first award. Certainly it was unfortunate for the claimant. If the first award had stood, the allowance to the estate might possibly have been collected. Woo got the benefit of two elements of consideration for his agreement to submit to arbitration: the surrender of the steamer *Confucius* and the departure of Burgevine.

But he refused to be bound by the first award. He refused just as strenuously to be bound by the second award.

Consul-General Seward and Woo, on the 13th day of October, 1863, entered into new articles of arbitration. The new arbitrators were two of the foremost business men in China. They found "that the only safe conclusion is that neither party substantiates a claim on the other, and that matters should be allowed to remain as they stand, the claims offsetting each other."

This is undoubtedly a good award. In his letter to Twombley (p. 8, Ex. Doc. No 48) Mr. Seward says:

> This agreement superseded the former one, and henceforward I could claim under it only.

Whether Mr. Seward had the power to agree to a new arbitration or not is not very important. His powers as consul over decedents' estates were considerable. But no formal protest was made against his action until long after the event. The Ward estate claim was submitted to the arbitrators presumably by the administrators. It is too late to object to the jurisdiction. If Woo had promptly accepted the award and abided by it, the Ward estate claim would have been forever adjudicated.

But Woo repudiated a large part of the award, and paid such debts only as he thought just, irrespective of the awards.

It was competent, therefore, for the Ward state also to repudiate the award.

No insuperable bar to the prosecution of the claim by the Department of State arose until 1883, when the money due on the award was paid by China. If it be conceded that the original claim is not substantiated by sufficient proof to warrant its being again presented to China, which is clearly my opinion, the question of the validity of the alleged counterclaim becomes immaterial. But I think it best to give my views thereon.

The claim of the debt from Ward to the Chinese Government rests on the declaration of Woo, and the exhibition of a paper, in Chinese, purporting to be a receipt from Ward for 270,000 taels. No copy or trans-

lation of this paper was preserved. We know little about it. But Woo says that the money received "was sent to the United States in bills." If this be true, it was honestly accounted for. There is no doubt, I think, that H. G. Ward's accounts as rendered are accurate and honest.

The following circumstances all sustain this view: The contract made for ships; the inability to complete it for want of money; the demand for more money; the failure to get it; the sale of the ships. By these accounts it is shown that the estate received and retains 42,309 taels of money furnished by Woo.

But as China denied the validity of the original claim it did not matter that Henry G. Ward's transactions were explained. It must be noted that Woo saw these accounts in 1868.

The Chinese contend that as the estate has received 42,309 taels and the Imperial Government has awarded divers posthumous honors to the general nothing more is due. Whether the national debt of gratitude has been discharged hardly enters into the elements of consideration on this occasion. It is not to be presumed that the Government of the United States will make sentiment a basis of a claim against another nation.

But, in an official point of view, taking our relations and past dealings with China into account, it seems to me that, even if this claim were strong and not weak as it undoubtedly is, it would not comport with our dignity, and hardly with fair dealing, to take it up again.

A review, as set out, of the facts will sustain this opinion.

My predecessors, except Mr. Burlingame, have relied exclusively upon the last award.

Since Mr. Evarts wrote to Mr. Angell to present the "Ward estate claim" six years have elapsed. The "Ward claims" were then unpaid. At that time China still refused to be bound by the award, and, for that reason, it was permissible to push the "Ward estate claim" irrespective of the award.

But in 1883 China acknowledged, not the justice of the award, but its binding effect, and paid the sums awarded with interest at 9 per cent. from the time fixed for payment. It is not equitable for one nation in dealing with another to dispute the validity of an award after it has received the fruits of other parts thereof. It is like blowing hot and cold, as the lawyers say. The whole conduct of the negotiations at Tientsin and the final receipt for money paid on the award constitute a strong ratification of the last award. The repayment to China of the residue of the "Canton indemnity Fund" after deducting, without any recognition of this claim, Hill's claim, constitutes another link in the chain of events which operate against the proposition to re open this claim.

I do not undertake to define the distinction between presenting a claim officially and unofficially. The recognized medium of communication between the Imperial Government and the outer world, under the treaties, is the diplomatic agent. If he specifies that he acts unofficially, little or no attention will be paid to him by the Imperial Government.

The claim, in my opinion, does not rest on a basis sufficient to warrant its presentation in any form.

It is just to the memory of General Ward to say that I have reached the conclusions above set out without any process of reasoning which casts any shadow of obloquy on this remarkable man.

That he believed in the justice of his claim; that some moral foundation existed for it in the statement of Woo, that when they had a suc-

cession of military successes "we will abundantly recommend your services;" that if he had lived he would have been rewarded in a great degree; that if he had a legal claim there was no sufficient offset against it, are facts that may be deduced from the record.

Desiring simply and without any pride of opinion to present all the aspects of the case, I concede that there are inconsistencies in Woo's conduct and declarations hard to reconcile. At one time he claims as due him 30,000 taels, or dollars; at another, 270,000 taels.

If the original case were firm and strong I would have no difficulty in coming to a different conclusion; but, unfortunately, there is no basis for it except the alleged admissions of this inconsistent witness.

While, therefore, these and other considerations, which will occur to you, remove from the case all reproach against those persons who have from time to time prosecuted this case and from the present petitioner, there are not, in my view, sufficient grounds for the renewal of this claim.

Lest you should think that this case should have been argued more *in extenso* by me, I beg leave to state that I have intentionally avoided making a legal argument. I am sure that your own judgment and learning will supply reasoning, legal or otherwise, better than I can make. I am sure also that you will give to all the suggestions made, full consideration. I have only to state in conclusion that in the discharge of the duties of my position my sole desire is to execute your directions, and that they will be most cheerfully and implicitly obeyed.

I have, etc.

CHARLES DENBY.

[Inclosure 1 in No. 445.]

Mr. Seward to Mr. Burlingame.

SHANGHAI, *September* 8, 1864.

MY DEAR MR. BURLINGAME: Your semi-official open letter, dated 16th ultimo, was handed me by Mr. Ward on the 5th instant. As the matter is important I hasten to reply.

The general intent of the letter troubles me somewhat, since it is in fact an expression of your disapproval of the manner in which I have handled the Ward estate.

Without entering at once into the question of the feasibility of the course determined upon by you, I propose to recapitulate in the briefest manner the incidents of General Ward's history in China, and of the management of the estate.

General Ward arrived in Shanghai as officer of the ship *Matilda*, on or about the 20th of April, 1860. His previous history had been an erratic one and embraced experiences upon the ocean and those schools of adventures, Texas and Nicaragua. He soon found employment in taking charge of a body of 20 or 30 Manilla marines, then being organized by Gough, a sort of commodore of the Chinese fleet.

Ward found favor with the Taotai Woo, a man of acute mind and large experience, and with Takee, a merchant who had amassed by various means a large fortune. The Manilla force grew into a large body of foreign vagabonds, who, under the influence of Ward's dash and of his sternness, achieved some successes, but they were too expensive and too unreliable as a force. Ward sorted out the better men and with these as officers organized the body of natives who have since become famous as Ward's "ever victorious army."

Ward then achieved a series of victories which promised to stem the current of the rebellion. He fought indomitably, alike indifferent to the dangers of the field and of the climate. We all remember that in the terrible summer of 1862 he was as active as if fighting under the bracing atmosphere of a purer climate.

Finally the last scene was enacted near Ningpo on the 21st of September, 1862. He fell while directing an attack upon Tsikee, a strongly walled city.

For more than twenty-four hours he lingered in much pain. He was still clear in mind so far as one can judge. By his request a few words were taken down as follows:

"The Taotai of Shanghai owes me 110,000 taels. The Takee also owes me 30,000 taels, a total of 146,000 taels.

"I wish my wife to have 50,000 taels, and all that remains to be between my brother and sisters.

"I wish Admiral Sir James Hope and Mr. Burlingame to be my executors."

When the messenger, Captain Borlase, announced to me the death of General Ward you had already proceeded to Peking.

Admiral Hope was also absent. The dying words I knew of only by report. Such precautions, however, were taken as prudence dictated. By my direction the effects of the deceased were taken in care and his papers sealed and put in a place of safety.

Subsequently, perhaps fifteen days, Admiral Hope arrived. He took some action in the estate, among other things giving to Takee the possession of two steamers—the *Martin White*, a tug, and the *Fah wah*, a river steamer, then nearly finished; in both of which Ward was known to be interested. Admiral Hope seems not to have doubted that Takee was also interested in them.

In a short time Admiral Hope, who was about to leave China, handed me an open letter for Mr. Cunningham, then absent, which contained a request that he should act for him in the estate. A copy of the statement made by Ward when dying was inclosed, and mention made of the fact that he (Hope) had recommended to yourself that in your absence I should be empowered to act for you.

Your power of attorney came in due time, Mr. Cunningham in the meanwhile taking such steps in the custody of the property as was thought advisable.

At this point a difficulty arose. As judge in the probate I did not feel that I could well act also as executor in an estate in which many points of dispute were sure to arise; neither could I recognize that either Mr. Cunningham or myself received any very definite authority under the power of attorney.

After consultations with Mr. Cunningham, who was little disposed to act in the estate at all, I called a meeting of those concerned. Mr. Cunningham opened to them the circumstances of the case, and advised the nomination of an administrator. Mr. Freeman's name was proposed and accepted by all. I accordingly issued to him the necessary authority. Some time elapsed in this way. Then occurred the Burgevine imbroglio. Woo and Takee were pressed for the money due the estate, as named by Ward, and assented that the amounts were correct, but Woo declared that there were counter-claims to a large amount; Takee, that he had paid for the whole of the tug *Martin White*, and that, as the vessel was joint property, one-half of the purchase money should be deducted. When Burgevine was removed the affairs of the ever-victorious forces were in a sad condition. Money was due on this account to a large amount. The claims came in to me, and I thought it my duty to assist in clearing the business up. Woo was degraded, but, after Chinese custom, was directed to settle the outstanding accounts. It was at this time of confusion that the administrator, with my assistance, secured possession from Burgevine of the two steamers. Takee was only too glad to get them from the latter by any means in his power. I may say here that at Shanghai the collection of debts from Chinese has taken the form of diplomatic representation. I knew by experience that it would be better to determine with Woo, if possible, the exact amounts due the claimants, and then, in case payment was withheld, representation might be made in the proper quarter.

By written agreement with Woo, Messrs. Jenkins and Rodgers were determined upon as arbitrators to decide which claims were due and owing. Accounts were handed in by people of all nationalities to an extent of about $350,000. The claim against Woo of 110,000 taels was also put in by the administrators in Ward's estate.

The arbitrators were engaged six weeks. Woo was furnished with abstracts of accounts and asked to enter his objections. He did not come forward, and finally, wearied with the delay, the arbitrators brought in their report. The claims were passed almost without an exception. Upon the award, I asked payment. Woo insisted that the arbitrators had not done their work; that it was not just to hold that they had. I asked his reason for saying this, but could get nothing satisfactory from him. I accordingly handed the papers to yourself, asking you to interfere to secure payment.

At that time Burgevine was at Peking. You had secured a promise for his re-instatement. Unwilling to injure Woo, of whom you had a favorable opinion, you said to me, "It will be better to go back to Shanghai and tell Woo how the affair of Burgevine has terminated. He will then see that the best thing he can do will be to pay up and avoid further trouble."

Burgevine came to Shanghai; the instructions from Peking were different from those we expected had been sent, or else the local authorities considered that the conjuncture was one that called for peculiar action. They refused to receive Burgevine, and thus the lesson which Woo learned was quite of a different sort from the one we had expected to profit by. But Woo gradually came forward with his objections to the award. I considered them carefully and finally determined that I should be doing an unnecessary act, and one which I could not defend to myself should I insist longer. I then set to work to collect evidence in regard to the claims, and to sift them by personal communication with the claimants and with Woo. The result was that many

claims were entirely ruled out, and on the other hand that Woo assumed many which he had denied at first. He would not, however, pay over the amounts allowed until I should assure him that I would also collect in his favor from Burgevine, and from Burgevine's quartermaster, Benson, whom he considered defaulters. In all this time the matters of the Ward estate were being discussed.

Finally, perceiving that it was useless to proceed in this manner longer, unwilling to trouble you with a matter with which, from my information, I was more competent to deal, unwilling also to undertake to reclaim through the Chinese officials with whom there was little chance of accomplishing anything except in the wrong direction, I agreed upon a second arbitration in which Mr. Cunningham was named by me and Mr Hanbury by the Taotai.

Three matters were to be laid before them under their submission; the general unpaid claims, the claims of the estate, and the counter-claims against Benson. Burgevine had at this time joined the insurgents. The Taotai agreed to pay whatever the award should call for. I agreed not to press again any claims which they should rule out, and also to do what I could to collect from Benson in case he was adjudged to be a defaulter.

The arbitrators went into the general claims very carefully. The ground to be gone over in regard to them was necessarily quite the same to an extent as that to be gone over in dealing with the matter of the estate.

It is obvious that the relations between Woo and Ward were to be examined most carefully in numerous cases where the decision would simply effect transfer of debt from the one to the other.

The decision was at last rendered; the award on general claims cut down the amount from, say, $500,000 to, say, $61,000. In the matter of the estate there was declared to be not evidence enough to enable the arbitrators to decide either way. The charges against Benson were declared unproven. Woo, upon this award, paid up an amount of about 60 per cent. of the award. For various reasons, I have not as yet urged the payment of the balance.

You will now remember that in May I was at Peking. My visit was short and occupied with a great variety of business. The matters of the estate were, however, talked over at some length. Knowing that Mr. Ward was at the moment en route for the capital (my opinion was that the estate would be better off to let the matter stand, thus keeping what they had), I naturally endeavored to tell my story in a manner which would show you when he should arrive that I had not based my opinion upon any one-sided consideration of facts. You seemed completely satisfied, and even asked whether Mr. Ward could not in some way be turned back.

I re turned to Shanghai, and anxious to close up the estate with a view to be ready at any moment to return to the United States, I endeavored to secure an (adjustment) adju dication upon the still unattempted accounts of Takee and the estate. I wrote to Takee recommending that as he claimed from the estate he should come into court. Without hesitation he appointed Mr. Jenkins to act for him. A regularly drawn petition was entered; a prosecutor chosen and the matter duly brought in for a hearing. At this point the solicitor for the estate had counter-claims, and asked that a bond should be required from Takee to abide the adjudication about to be made. Takee consented to give a bond to an amount of 30,000 taels, with a foreign surety, but preferred to submit the matter to an arbitration. He was naturally suspicious of me for requesting him to come into my court, and for the insisting upon a bond. He would doubtless have refused the bond had I not consented to the arbitration.

The administrator would not make himself a party to the submission. He resigned and I thus became official administrator, and executed the necessary documents. The arbitrators were Messrs. Loureiro and Hayes. They showed their fairness in the outset by agreeing upon Mr. Dixwell, than whom no man in China is more respected as umpire.

You have already seen my argument on behalf of the estate. Indeed, you have, perhaps, been induced by it to take more strongly the ground you now occupy in this matter. I append a copy of the agreement, only remarking that I was acting at the time not as judge, but advocate.

During this time Mr. Ward was still at Peking. You were fully informed of the arbitration. I received no word of dissent from my action from either.

The award was finally entered a few days ago. Since this Mr. Ward has arrived and the whole matter seems again afloat.

You will thus see the general bearings of my action. I will now dwell briefly upon the contents of your letter and the remarks which will follow will indicate my position.

The substance of your letter is that yourself and Dr. Williams have carefully examined the evidence brought forward by Mr. Ward and have come to the unqualified conclusion that the dying statements of the deceased should be accepted as definite and final. You have so represented to the Government, who you say have issued orders that the accounts in relation to certain sums of money sent to New York

through General Ward for the purchase of the steamers alone should be deducted. You direct me to forward the audit and to collect from Woo the amount of the difference between the amount so audited and the 110,000 taels. From Takee I presume I am also directed to collect the 30,000 taels. Nothing is said of the very important matters lately at issue between Takee and the estate, in regard to the two steamers *Martin White* and *Fahwah*.

It thus seems that the claims of the estate are in your opinion so clear that no argument can be entertained. Upon the point I find myself reluctantly but irreconcilably at issue with you. If it was a simple matter of judgment I should not take up valuable time in argument or hesitate to carry out your wishes. The case stands, however, that I am in possession of facts which have not come before you and which it seems to me proper that you should know before final action is taken.

In the first place it is stated in your letter that your position was "that the dying words of General Ward and the admission of Woo and Takee to various reputable parties and before a legal commission, assented to by both sides, constituted sufficient evidence of the justice of the claim and that the award of the commission after a month's sitting was an adjudication of the same."

The dying words of Ward have been given. I believe that they may be satisfactorily explained consistently with the actual facts of the case. I doubt much, however, whether in a court of law, if unexplained, they would stand against evidence produced.

Now, either these dying words are all in all or else they are little. If seriously invalidated in one point they can hardly stand in another.

They are so invalidated in the case of Takee. Two arbitrators, Mr. Hayes on my part, a person very favorable to the estate, a man of acuteness and the strictest principles, and Mr. Loureiro on the part of Takee, a person of vast business acquaintance, whose success speaks strongly as to his capacity, have gone very carefully into the matters pending, and they offer their report without disagreement. The accounts are still to be made up. The decision, however, offers the explanation of the dying words of Ward and yet finds that the 30,000 taels have vanished into the air. The next step in your position is connected in my argument on the first. You say "the admission of Woo and Takee, etc., constituted sufficient evidence of the justice of the claims." You do not say what these admissions are, but I infer from your position that your belief is that Woo and Takee acknowledged without reservation the full indebtedness as stated by Ward. Of the admission which Woo did make I will speak afterwards. That of Takee as given by Mr. Freeman, the only witness who has made any statement within my knowledge, is that he asked Takee whether the amount due Ward was the same as the sum mentioned by the latter; Takee answered, "Yes, I owe 30,000 taels, but I paid for the whole of the *Martin White*. The boat was jointly purchased and the one-half must be deducted from the share of Ward."

Mr. Freeman is a witness decidedly uncompromising in favor of the estate. The conversation was had soon after the death of General Ward. Just now the arbitrators have examined the whole evidence and they decide from proofs drawn from many quarters that Takee had paid as represented by him in the outset.

As to the whole train of facts leading the arbitrators to their conclusion, I refer you to Mr. Hayes' statement inclosed. Mr. Dixwell, who had examined the matter to an extent, entirely approves of their judgment.

The 30,000 taels which Ward referred to, as is reasonably put by Mr. Hayes, could only be the deposit with the Tong Tai Bank, made through Takee. I can not but agree with him in saying, "I think it reasonable to suppose that he (Ward) wished to call attention to this deposit and thus avoid the claiming by Takee of the whole of the *Martin White*." General Ward's dying statement thus has its usefulness, but it can not well be taken as an accurate expression of the condition of accounts at the date; this having been the judgment of all who have carefully examined facts on both sides, so far as Takee's matters are concerned, must lead us to hesitate in regard to the amount named as due from Woo. But there arises the supposed admission of Woo of the amount so claimed. I do not know what evidence you have on the point. I inclose, however, the statement of Messrs. Jenkins and Rodgers, who declare that Woo did not assent to them, at least as represented; he, on the contrary, admitting the general sum, claimed a large counter side.

It may seem peculiar to one not acquainted with the manner in which claims are spoken of by Chinese that Takee and Woo should say "We do owe the sums named," and then make the contradictory statement, "but he owes us so and so." This, however, is the Chinese peculiarity. Thus a merchant would declare of such a man, "He owes me 30,000 taels. I owe him 20,000 taels," instead of striking the balance and saying, "He owes me 10,000 taels." I inclose Mr. Eames' statement on this point. Now I come to the matter of the arbitration. I have already stated why I re-opened the matter. I have also given a statement of the sums allowed by the second arbitration. A simple comparision of the amounts must indicate to you that my action was just in setting aside the old arbitration.

The answer which arises in your mind is that if Woo failed to come forward, as he should have done, on the original arbitration he should be compelled to abide the consequences.

But I must say here again that we must allow for Chinese peculiarities. I know from experience in my own court that a Chinaman is not capable of working his case up. He will come to you and reiterate the fact that "so much is due to him." It is only by patience and urging that his proofs can be adduced. If I am not correct in this, should we not still hesitate to receive as accurate an award in an amount of half a million of dollars involving intricate questions, all made in less than six weeks, including time of collection of claims and making translations? I concluded from a very slight knowledge even of some of the arguments and proofs since brought forward that I could not conscientiously insist upon the award as given by Messrs. Jenkins and Rodgers. We have only to note the result of the subsequent investigation made by Messrs. Hanbury and Cunningham of the general claims, and the absence of complaint against their award, except in one instance, to determine that my action was founded upon those principles of justice to all men, which I feel proud to remember have always characterized your conduct, and which in this instance can not but receive your most unhesitating sanction. So much may be said in regard to accounts against Woo.

Turning to Takee's case, there is little to be said. The matters at issue with him have been submitted to only one arbitration. There is no irregularity in the submission. I was official administrator, and as such had a full right to assent to the arbitration. Considering all circumstances, it was, as I think, my duty to do so. The award was given and there is no irregularity in it. Until this is set aside by judicial action I can not go behind it, except upon the doctrine of might instead of right. Moreover, so far as I am able to judge, there is no legal action which can be taken to overthrow it. But can we without inconsistency let the award with Takee stand and refuse any arbitration at all to Woo? I consider the original award as nothing, and so declared. If I, as the one party to it, and Woo as the other, so agree and determine upon a new investigation, can any one say that the original arbitration was more than nothing? If, then, viewing the matter abstractly, we allow the Takee award to stand, and we can not but do so, we must at least accord Woo the privilege of an arbitration. It comes now to this point: There has been an arbitration with Woo—I refer to the Hanbury-Cunningham arbitration. Shall it stand or not? So far as matters of right go it may be opened. Woo has always declared that he wished it open. I have been of opinion that it would not be wise to open it lest the estate should fare worse.

At the same time I have consented to allow Woo to neglect payment in the general award by the arbitrators, in order that if developments should warrant I might be able to declare that Woo himself had, by neglecting to abide the award, opened the door for a new arbitration. It is feasible to open the matter with Woo, and I confess that it seems to me desirable that this should be done. I may not be able to say that the estate will gain anything, yet it will be better that a definite decision may be given in order that no one may have reason for complaint.

If it be opened I will venture to promise a cordial co-operation with Mr. Ward in trying to impress upon the arbitrators those strong points of evidence which have gone so far in determining your action. If, however, other evidence is produced, which, in a fair view of all circumstances, decides the arbitrators in an award against the estate, you certainly would be the last to say that injustice had been done.

I now note the remarks made by you as to my position as executor. You state that I am the legal executor. Upon this point I would say that no will has been proven, and that consequently there can be no executor. I am simply administrator. That I am legally clothed with the usual powers of an administrator can hardly be doubted.

But is it wise for me to turn the estate over to Mr. Ward? Upon this point I must also inform you of some facts which have not come before you.

There is reported to have been a considerable rupture in Mr. Ward's family at home. This much is certain, that the only person supposed to be interested in the estate beside Henry Ward, the sister mentioned in the last words of the deceased, refused to give her father the power of attorney asked for by him. Mr. Freeman tells me that Mr. Ward told him that he had written for this. Doubtlessly the sister refers to her father when she states in a letter, an extract from which is inclosed, that she had been requested to give a power of attorney for the settlement of her matters in China, but had refused. Thus of two persons interested one prefers not to place matters in Mr Ward's hands. Then, again, the custody of the steamers, not wholly the property of the estate, could not well be turned over to a person who, believing himself an heir, would only act with them as his own interest might dictate.

Again, there are several creditors of the estate in Shanghai who, I think, would not see without distrust the property, present and prospective, of the estate turned over to a person who rightfully or wrongfully does not hold a very good reputation, and who by sharp practice might wheedle them out of what they may now expect to get.

I have thus gone over, inadequately and hurriedly, suggesting rather than arguing, the points contained in your letter. I will dwell a moment upon circumstances which bear upon the whole matter.

Ward, as we have said, was in China only two and a half years. During this period he was busily occupied in organizing a troublesome force, and in the field. His mind was in his work.

I say his mind was in his work. It could not well be that one so ambitious as he was, so busily engaged and so successful in his operations, could be a simple loot-getter.

If it had been so he would have obtained a reputation accordingly. Now, if he was so wrapped up, he would be apt to subordinate other interests to that of his success in the one direction, and this is precisely what his dying words indicate. Takee, the merchant, owed him, to put it as he did, but 30,000 taels. This amount on inspection vanishes, except as a credit item in a transaction of an extensive nature. The only other outstanding credit of a private nature seems to have been his interests in the steamers. The accounts show with these that he had not disbursed so much as his copartner.

But with Woo, the Government, so to speak, he claimed that there was a large sum, and there seems to be reason to believe that this was the case. It stands thus, coupling the above facts with the well-known fact that the Government was hardly pushed for means, that Ward advanced to, or failed to draw from, the Government certain amounts. He could only have been actuated in this by a desire to help along the main object.

Is it now likely that such a man would accumulate a large fortune in the short while he was at work. If he was liberal enough to advance so largely, would he not be also liberal in many ways in which he could not expect a pecuniary return?

But without this argument, the case, as represented by Mr. Ward, is essentially absurd. He has claimed as follows:

	Taels.
From Woo	110,000
From Takee	30,000
Martin White (cost)	41,000
Fahwah (one-half cost)	50,000
House on French Bund	30,000
Salt monopoly	100,000
Total	361,000

Or half a million of dollars.

It is to be noted that the evidence about the salt monopoly is precisely the same kind of evidence on which he relies to prove sole ownership in the *Martin White*, by statements made by the deceased to various parties. It is to be noted also that no trace of any possible interest in a salt monopoly can be procured. If the matter was in so blind a state, surely Ward, if there was really such an amount, would have spoken of it in his last words.

To a person of General Ward's temperment, his employment must have been a source of the keenest pleasure. Does any one doubt that, knowing the fame which was in store for him, he would have hesitated upon entering the field even had he known that no pecuniary reward was to be vouchsafed? But, again, where could so much money come from? Cities were being taken, but they were also being retaken. Ward had not found it possible to hold some cities which are within the 30-mile radius. The fact that everything was largely in arrears to shop-keepers, to soldiers, to Ward himself, is evidence enough that half a million of dollars could not so easily have been accumulated by him.

Yet Ward was in the habit of talking largely. Perhaps he deemed it his rôle to do so. His large talk, which every one who was in Shanghai at the time of his prosperity knows of, is, however, the very thing which serves to make it difficult to get at the justice of the case. A sort of halo of the brightest hues surrounds all he did which it is difficult for the eye to penetrate, except when assisted by the smoked glass of judicial examination. This is so evident from the reports concerning his business transactions with Takee, that I must dwell a moment longer at the risk of utterly wearying you.

Perhaps you have yourself heard something of his reported connection with Takee in silk operations. Takee utterly denies that he ever had any such dealings. There is no evidence of any kind to show it. If there had been, as with the house and the salt monopoly, there should have been some memoranda among his papers. There was nothing of the kind, although many papers were found. The only thing which indicated business transactions was a memorandum of a settlement upon a silk shipment of two or three thousand taels' value made conjointly with Yakee. (The memorandum was in Ward's writing. The first letter was formed thus "Y.") We supposed, until it was explained, that the name was Takee, and thus hoped to show the

arbitrators that transactions of a mercantile kind had taken place with Takee, which in his petition he had completely ignored. Of course the attempt failed utterly.

Going back to Takee's matters, you will notice that the arbitrators advise a sale of the steamers. I do not see how they can be held under the circumstances. I propose to have them advertised as "for sale shortly," but not to consummate the transaction until I hear from you. The custody of the steamers is expensive, and I have already advanced a considerable amount upon them. Both are laid up. At this point I shall leave the matter. All that I have said—and not all of the available ground has been gone over—has been meant to indicate only that we shall not be dealing with the Chinese concerned in that enlightened manner which will insure us the greatest respect if we persist in ignoring what they have to say. They may weakly give way in the particular instance, but will it not affect our opportunity for general usefulness?

I have now to acknowledge a letter from you of a later date (August 22) than the one under reply. I note with pleasure your remarks, and beg to say in view of them that I trust that my foregoing statements will not serve to remove that high consideration which you have heretofore accorded me, and of which your last letter is a most pleasing testimonial.

Yours, truly,

GEO. F. SEWARD.

[Inclosure 2 in No. 445.]

[Extract from A. A. Hayes's letter to George F. Seward, United States Consul-General.]

SHANGHAI, *August* 30, 1864.

Ward's dying statement that Takee owed him 30,000 taels was utterly unsupported, and taking into consideration a random way in which he habitually spoke of his means, etc., I could not bring myself to accept the theory that when near his end, and in great pain, he was able to make up his accounts in his head and strike an accurate balance, and think it much more likely that he had reference to the 30,000 taels in the Tong Tai Bank, before alluded to. Of this 20,500 taels were paid for half the *Martin White*. More than the balance is charged on the bank-books as regular payments to Ward's debit. I think it reasonable to suppose that he wished to call attention to this deposit, and thus avoid the claiming by Takee of the whole of the *Martin White*.

True copy.

GEORGE F. SEWARD,
United States Consul-General.

SHANGHAI, *September* 8, 1864.

[Inclosure 3 in No. 445.]

Messrs. Rodgers and Jenkins to Mr. Ward.

SHANGHAI, *April* 13, 1864.

DEAR SIR: In answer to your verbal inquiries as to our actions as commissioners appointed to examine into claims against the Chinese Government on account of the Ward corps, we make, as requested, the following statement:

The claim of 110,000 taels due the estate of your son, the late General Ward, was laid before Messrs. Woo and Takee, when they met with us to discuss the various claims, and they admitted the same to be correct, but stated they had paid (or became liable for) a sum of 30,000 taels (or Mex. $30,000, we are at this moment uncertain which), to apply against this amount. They never furnished us with any proof of such payment, but left us under the impression that they admitted the sum of some 80,000 taels to be due to your son's estate from them on this claim.

Yours, etc.,

J. KEARNEY RODGERS.
F. H. B. JENKINS.

[Inclosure 4 in No. 445.]

[Extract of a letter from Elizabeth C. Ward to A. L. Freeman, esq.]

SALEM, *April* 18, 1864.

I have not sent a power of attorney to any one, though requested to do so, having full confidence in your ability, and hope that you will continue to act for me until the estate is settled.

True copy.

GEORGE F. SEWARD.
ALBERT L. FREEMAN.

SHANGHAI, *September* 8, 1864.

[Inclosure 5 in No. 445.]

Mr. Eames to Mr. Seward.

SHANGHAI, *September* 8, 1864.

SIR: Relative to your statement in a letter to the Hon. Anson Burlingame, that a Chinaman, instead of saying I owe so and so 10,000 taels, would say I owe him 30,000 taels, he owes me 20,000 taels. I repeat, as I have before stated, this has repeatedly occurred in my practice.

I observed this peculiarity especially in a late case at Ningpo, in which I was engaged, and in which the Chinese defendant persisted in saying that he owed the plaintiff a large sum, at the same time claiming a much larger sum from the plaintiff, although I had endeavored to persuade him to state the balance only. I inclose a letter from Robert Raynor, esq., one of the assessors in the suit referred to, confirming my statement.

I will inclose a letter from the plaintiff in the suit, if received in time, and should you think it important, I have no doubt that further confirmation could be obtained from Mr. Holt, Her British Majesty's consul at Ningpo.

I have, etc., J. B. EAMES.

[Inclosure 6 in No. 445.]

Mr. Raynor to Mr. Eames.

SHANGHAI, *September* 8, 1864.

MY DEAR MR. EAMES: In reply to your question regarding the case of Johnson & Co. *vs.* Ho Amun, in which I was one of the arbitrators, I beg to say that I remember quite distinctly Ho Amun's admitting his indebtedness to Johnson & Co.'s agent for a certain amount, he at the same time claiming from the same individual as due to him (Ho Amun) an even larger sum.

My own practice in settling accounts with Chinese is almost invariably to tell them, in pigeon English, "first my looksee how much you owe my, then looksee how much my owe you, so fashion, very easy finder that balance."

I find that the Chinese, at least in dealing with Europeans, seem always to look upon the whole of the debit side of their account with a house as a debit due by them (Chinese), and upon the whole of the credit side as a debit due them, keeping the two, as it were, distinct, until by striking a balance and settling that the matter is arranged.

Yours, very truly, ROBT. RAYNOR.

No. 144.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 451.] LEGATION OF THE UNITED STATES,
Peking, September 9, 1887. (Received November 2.)

SIR: What effect the railway schemes of Russia may have on the policy of the Chinese Government it is impossible to prognosticate, but the effect of the completed lines on China is not difficult to forecast.

The scheme of a trans Uralian railway which will connect St. Petersburg, on the Baltic Sea, with Wladiwostock, on the Pacific Ocean, is vast but feasible. The construction of our own transcontinental railways, and particularly the completion of the Canadian Pacific, have at the same time demonstrated the feasibility of building railways of great length, and their usefulness when completed.

England finds, over the Canadian Pacific, a new route to India, partly on her own soil, and the balance on the sea which her navy dominates. Russia is keenly alive to the advantages which would thus accrue to her great rival in the event of a war for India, which has so often been imminent, and, some day, as the world believes, must transpire. But the country which is most threatened by the proposed Russian line is China.

The trans-Siberian railway is now completed from St. Petersburg to Tiumen, a trans-Uralian city. As the new line is laid, it depends somewhat on steam navigation. But, as the waters in Siberia are closed by ice from the 10th of November to the 10th of April, the railway line to serve the required purposes must be continuous. The line must rely largely on governmental aid. A railway can not compete with the Amur River steamers in carrying tea, nor probably with the caravan route across the desert to Irkoutsk. Grain and cattle are cheap in Siberia, but so they are in Russia. It will take many years to develop the immense mining interests in Siberia. The road will be very costly to build, and can not rely on its own revenues. Military exigencies for such a road are pressing. In 1878 and 1879 war nearly resulted between Russia and China over the rejection by China of the treaty made by Chung How. The immense labor and expense of accumulating men and munitions of war at Wladiwostock, the insufficiency of the fleet in the Pacific, the want of a base of operations, the absence of arsenals, all taught Russia a lesson.

She abandoned the treaty as made and gave back to China the largest part of Ili, retaining, however, some strategic positions.

Russia now recognizes that by existing means of communication she can not move troops and stores in requisite quantities. She realizes that, by building a road to the Pacific, she may become the greatest power on that ocean. It is true that her Pacific port, Wladiwostock, is closed by ice during the winter, but when once she has grasped the Pacific, she will not be slow in seizing a more southern port, perhaps Port Lazaref.

The necessities of the Chinese Empire thus become clear. She must build railways to preserve her lines of communication, and to enable her to mass troops. She must build a line to Moukden, with a branch thence to the Amur, and another to Possiet; so as to give strategic communication with Corea. She must defend her frontier with forts and men, and there must be communication to them by rail.

What influence these ideas have had on the late action of China in connection with American capitalists, I can not say; but, as they are now being discussed in all the newspapers, either in criticism or approval of that action, it is likely that the Chinese statesmen have grasped the problem.

From the Chinese Times, to which I am indebted for some of the foregoing facts, I take the following statement of the distances of the proposed railway: From St. Petersburg to Tiumen, 1,816 English miles; from Tiumen to Wladiwostock, 4,796 miles, or, allowing for divergencies, 7,226 miles. The cost of building the line between Tiumen and Wladiwostock is estimated at £48,000,000 sterling.

I have, etc.,

CHARLES DENBY.

No. 145.

Mr. Denby to Mr. Bayard.

No. 464.] LEGATION OF THE UNITED STATES,
Peking, September 29, 1887. (Received November 25.)

SIR: I have the honor to report that the third installment of the indemnity fund (6,000 taels) to the American missionaries was paid to Mr.

Cockburn, Her Britannic Majesty's consular agent at Chung King, the 3d instant. This sum has been placed by Mr. Cockburn in the Hong Kong and Shanghai Bank at Hankow to the credit of Dr. Crews.

I have, etc.,

CHARLES DENBY.

No. 146.

Mr. Bayard to Mr. Denby.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 6, 1887.

Directs Mr. Denby to express to the Chinese Government the surprise and regret with which the United States learn of obstruction being placed by Chinese officials in the way of Corea's diplomatic representation in the United States as stipulated in existing treaty.

BAYARD.

No. 147.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 478.] LEGATION OF THE UNITED STATES,
Peking, October 10, 1887. (Received November 25.)

SIR: I have to report that the Presbyterian missionaries at Canton endeavored, in the early part of September, to re-establish their mission post at Kwai Ping, in the province of Kwang Si. This is the same place from which they were driven May 6, 1886.

On this occasion Mrs. Fulton, wife of Rev. A. A. Fulton, his sister, Miss Fulton, a physician, and two children were driven away by the mob. They did not suffer personal injury, but missiles were thrown against their boat and abusive language uttered. Some of the Chinese residents received them kindly, but owing to the violence of the mob it was deemed best to withdraw. During the voyage down the river one of the boats was wrecked. It was immediately looted by robbers. Valuables and passports were carried away and the remaining property was destroyed. The loss amounted to $200 or $300 in value. The consul will present a claim for damages to the local authorities.

Such wrongful proceedings can not be too severely condemned. I can not forbear, however, saying that I view with regret and reprehension the intemperate zeal which insists on a dangerous effort to effect missionary lodgments in the interior in localities where great opposition is met.

With the approval of yourself and your predecessors this legation has continuously announced the true construction of the treaties to be that permanent residence in the interior is not secured, as matter of legal right, to the missionaries.

This declaration is qualified only by the assertion that if other missionaries are allowed to locate in the interior the same right would be

claimed for the Americans, and if injuries followed a residence which the authorities tolerated, redress would be demanded therefor.

In public and private utterances I have cheerfully testified that mission work accomplishes philanthropical and charitable purposes. I may go further and assert that some compensation goes to the country of the missionaries in ethnological, philological, geographical, historical, commercial, and literary information, which these pioneers gather and transmit home. These considerations, however weighty, can not be permitted to override positive law, nor can they condone conspicuous acts of rashness.

I have, etc.,

CHARLES DENBY.

No. 148.

Mr. Denby to Mr. Bayard.

No. 480.] LEGATION OF THE UNITED STATES,
Peking, October 11, 1887. (Received November 25.)

SIR: Referring to my dispatch No. 451, of date September 9, wherein I described the projected Siberian railway, I now have to state that eleven Russian railway engineers have arrived at Hong-Kong.

They will explore and survey the country between Vladivostock and Boussé, a place on the Oussouri River, a distance of 60 or 70 miles.

The Oussouri is a tributary of the Amoor. The ultimate design is to extend the railway first to Lake Baikal and thence to the borders of the Ural Mountains, where it will be connected with the railway system of Russia in Europe.

It is said that contracts have already been made to transport the staff, the rails, and the rolling-stock. This movement will prove of vast advantage to Vladivostock.

I have, etc.,

CHARLES DENBY.

No. 149.

Mr. Bayard to Mr. Denby.

No. 242.] DEPARTMENT OF STATE,
Washington, October 13, 1887.

SIR: I have received your No. 443, of August 26, 1887,* relative to the two Chinese officials who have been selected to visit the United States and other countries during the period of their two years' sojourn abroad.

A copy of your dispatch has been communicated to the Secretary of the Treasury, to the end that the gentlemen referred to may receive due admission into the United States upon arrival; and you may feel assured that whatever this Department can do to contribute to or promote the success of their mission while in this country will be cheerfully done.

I am, etc.,

T. F. BAYARD.

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* Printed in Foreign Relations, 1887, p. 235.

No. 150.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 482.] LEGATION OF THE UNITED STATES,
Peking, October 13, 1887. (Received December 3.)

SIR: The suzerainty of China over the great territories surrounding the Empire is one of the most difficult and shadowy questions arising in Eastern affairs.

It confronts you now in Corea. It confronted the French in Tonquin, the British in Upper Burmah and Thibet. The claim of suzerainty by China might be passed over as a harmless one, which time and information of international affairs may correct, but by reason of it China raises barriers against European trade.

It is well understood that the secret opposition of China to the opening up of trade communication with Thibet defeated Mr. Coleman Macauley's mission here a year ago. In the case of Upper Burmah China's claim to suzerainty lay dormant until Great Britain occupied Burmah. She then used it to defeat Mr. Macauley's plans, to secure the Hong-Kong opium convention and the abandonment of Port Hamilton by Great Britain. She contrived also to perpetuate her claim of suzerainty by obtaining from the British Government a pledge that the decennial missions from Mandalay to Peking with presents to the Emperor, should be continued. She insisted also that the head of the Burmese hierarchy and not a British official should conduct the mission.

This year she ostentatiously granted to Corea a remission of tribute for the coming year because of the poverty of that kingdom and her gracious good-will toward it.

By referring to my dispatch No. 94, of date February 17, 1886, it will appear that the Tsung li Yamên, under date of February 16, 1886, enumerated, as some of the dependencies of China, Corea, Lewchew, Tonquin, and Annam, Siam, Burmah, Nanchang (the Laos country) Ghoorkat, with the statement that these countries had all received an imperial patent or title from China as dependent or tributary states. Besides these it was stated that there are dependent territories included in the register or census of China, and as they embrace an area of several tens of thousands of li, it is no easy matter to state their names and boundaries seriatim.

Another illustration of this claim of suzerainty is now furnished in the case of Nepaul. The Emperor now claims to be the protector of this Himalayan hill state. A mission was sent from Nepaul to China. It first went to Lhassa, the capital of Thibet, where it was received with great distinction. It then proceeded to Peking, carrying presents and a letter from the ruler of Nepaul to the Emperor. The letter is addressed by Erdeni, the King of the Ghoorkas, "who humbly prostrates himself with nine obeisances before the throne of his great majesty, whose fostering kindness is like the overspreading vault of heaven and the rays of the sun and moon, and whose benevolence is extended to a myriad kingdoms." The letter contains much more of this hyperbolical adulation. It is dated August 6, 1886. The Emperor of China indorsed on it "We have perused this letter."

The Indian papers advise that some understanding should be come to with China as to her claim of suzerainty over Nepaul and other British possessions. They view this claim with distrust, and fear that serious

difficulty may supervene if at any time the action of Great Britain as to her frontier possessions should be claimed as an infringement of the rights of China.

While I was writing this dispatch a communication came from Mr. Dinsmore, detailing the opposition of the Chinese minister to the sending of a minister to the United States. Mr. Dinsmore informs me that the Chinese minister claims that in our treaty with Corea "it is distinctly stated that Corea is the vassal state of China." There is color for this assertion in the remarkable letter of the King of Corea to the President of the United States, which was delivered to Commodore Shufeldt during the negotiations, May 15, 1882 (see Mr. Holcombe's dispatch to the Department, No. 133, June 26, 1882).

The first sentence is this: "Chosen has been from ancient times a state tributary to China." But it is also claimed that the treaty is made between equal states, and that the United States have nothing to do with the "various duties" to China.

China can not now be heard to object to the sending by Corea of ministers abroad, because she consented that Corea should make treaties with the foreign powers. Nevertheless the condition is peculiar. Here Corea, preliminary to the making of a treaty, solemnly notifies the power with which it treats that it is tributary to China.

What restrictions, if any, on the intercourse with other powers, the suzerain may impose, are to be carefully considered. I simply make the suggestion as worthy of some consideration.

I have, etc.,

CHARLES DENBY.

No. 151.

Mr. Denby to Mr. Bayard.

No. 496.] LEGATION OF THE UNITED STATES,
Peking, October 26, 1887. (Received December 12.)

SIR: I have the honor to inform the Department that from reports recently presented to the throne, the Yellow River, aptly named by the Emperor Taokuang "China's Sorrow," because of the calamity caused by its oft-recurring floods, has again burst its banks; this time at a place below Ching Chow, near the capital of Honan.

It is to be feared that the devastation caused will be as serious as in 1856, when the river changed its bed, and instead of emptying itself into the Yellow Sea about latitude 34°, this huge volume of water turned off at right angles near the city of Kao Feng Fu, the capital of Honan, and found its issue in the Gulf of Pechihli, latitude 38°.

Though full particulars of the extent of the destruction and desolation have not yet transpired, still there is reason to believe that a frightful calamity has occurred, for the overflow must have covered hundreds of acres of arable land, converting them into a vast lake, destroying villages and towns, and rendering homeless thousands of persons.

A decree published recently appropriating the sum of 400,000 taels, and the entire quantity of tribute grain, to be sent by Grand Canal next year, due from Kiang-Su and other places, to alleviate the sufferings of the people, is evidence of the serious nature of the disaster.

By a decree published on the 8th of October instant, at the instance of the director-general of the Yellow River, a subprefect, major, lieu-

tenant, and second sergeant have been degraded and ordered to wear the canque along the banks of the river, and the intendant at the capital of Honan is to be handed over to the board for the determination of a penalty. The offense committed by these officers is that they did not take precautions to repair the damage to the banks of the river, and thereby avert further disaster.

I have, etc.,

CHARLES DENBY.

No. 152.

Mr. Denby to Mr. Bayard.

No. 500.] LEGATION OF THE UNITED STATES,
Peking, October 27, 1887. (Received December 12.)

SIR: I have the honor to hand you inclosed copies of correspondence which have passed between the Tsung-li Yamên and myself regarding the obstructions in the Canton River near Whampoa.

The appointment of a higher officer to attend to the duties affecting commerce at Whampoa I regard as desirable, but I do not admit the right of China to put obstructions at Whampoa that prevent vessels of deep draught from proceeding to Canton in time of peace.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 500.]

The Ministers of the Tsung-li Yamên to Mr. Denby.

Informal.] *Peking, October* 10, 1887.

YOUR EXCELLENCY: Last year your excellency addressed the Yamên, requesting that steps be taken to cause the removal of the barrier at Whampoa in the general interest of commerce.

At the time the Yamên replied that the barrier at Shalu could never be removed, a decree having been issued by the throne, and further discussion upon the subject would be of no use.

Later, his excellency Mr. Von Brandt, minister for Germany, at an interview, requested that an officer be appointed at Whampoa, and that the rule adopted at Taku be carried into effect there, which would be convenient to commerce.

The Yamên would observe that the appointment of an officer to reside at Whampoa in order that loss of time by delay to foreign merchants may be avoided is certainly an admirable and satisfactory plan. Notes have repeatedly been sent to the governor-general of the Tao Kuangs to take under consideration the circumstances and devise a scheme that could be enforced.

That officer has reported that, under the present regulations in force at Whampoa, on the arrival of foreign vessels the customs tide-surveyor issues a permit to open hatches and discharge into cargo-boats. After loading, the hatches of the cargo-boats are sealed by the tide-surveyor, and on arrival at Canton the hatches are opened, cargo examined, and duties paid.

In the case of vessels loading at Whampoa, the goods to be shipped are first examined at the custom-house at Canton, and after the payment of export duty a permit to ship in cargo-boats is issued. After loading, the hatches are sealed, and on arrival at Whampoa the tide-surveyor re-examines the cargo, and if there be no mistake permission is granted to transship to the foreign vessels. This rule is the same as the one in force at Taku governing imports and exports.

But foreign vessels, on arrival at Taku, must first be reported by the foreign consul to the customs before permit is issued to discharge cargo into boats. At present, on the arrival of foreign vessels at Whampoa, if the foreign hong (consignee) gives a bond guarantying the payment of the duties, dues, and all other charges within the specified time, and that they will not overstep or evade the rules, it is only necessary then for the vessel's papers and tonnage-due certificates to be presented (to the customs), and the tide-surveyor at Whampoa will at once issue permit to open hatches

and discharge cargo into boats. Hence cargo can be discharged and be on its way to Canton before the consul has reported the vessel to the customs.

Further, if the arrival of a vessel at Canton is telegraphed by the tide-surveyor to the customs at Canton, shippers can at once apply for permits to ship export cargo.

When the vessel is ready to clear, the tide-surveyor at Whampoa, after duly examining the export cargo, and the loading of the vessel is completed, hands the grand chop, or clearance, with the other papers, to the captain, and he is therefore not obliged to proceed to Canton for them.

Thus it will be seen that the regulation in force at Whampoa governing the importation and exportation of merchandise is much more convenient than the one in force at Taku.

But hitherto at the Whampoa customs there has been only a tide-surveyor, and as the rank of the chief of the tide-waiter class is comparatively low, it is now proposed to appoint a fourth-class assistant deputy commissioner of customs, to reside at Whampoa and take charge of the customs, then giving due weight and importance to the office.

The Yamên would further observe that as the object and purpose of your excellency's communication are to benefit commerce, the plan now proposed by the viceroy at Canton, together with a request that a deputy commissioner of customs be appointed to reside near at hand (Whampoa) to take the management of shipping, will meet with the wishes of the mercantile class.

The plan adopted at Whampoa is much more convenient than the one in force at Taku, and the ministers believe your excellency will surely be pleased to agree to it.

(Cards with compliments of ministers.)

[Inclosure 2 in No. 500.]

Mr. Denby to the Tsung-li Yamên.

No. 15.] LEGATION OF THE UNITED STATES,
Peking, October 27, 1887.

YOUR IMPERIAL HIGHNESS AND YOUR EXCELLENCIES:

I have had the honor to receive your imperial highness' and your excellencies' communication of the 10th instant, wherein you inform me that the Imperial Government intends to appoint a fourth-class assistant deputy commissioner of customs to reside at Whampoa to take the management of shipping. You further state your belief that I will agree to this plan.

You also inform me that the barrier at Shalu, in the Pearl River, can never be removed, and further discussion upon the subject would be of no use.

I have to express my regret at the above determination of a question in which the commerce of all nations is interested.

The obstruction of natural channels leading to ports has only occurred in time of war. It has been done by the Dutch, the English, the Americans, the Russians, and the Germans. But it is thoroughly settled by international law, that when war ceases, such obstructions, when impeding navigation in channels in which large ships are accustomed to pass, must be removed by the territorial authorities.

Such is the rule apart from treaty.

If there were any doubt about this question, it would be settled by the provisions of the treaties of the United States with China, which virtually make Canton a free port, to which our merchant vessels are entitled to have free access in time of peace.

While I do not admit the right of China, under international law, to close the channel in question, yet the appointment of a higher officer to take charge of the shipping duties at Whampoa seems to be desirable.

With assurances, etc.,

CHARLES DENBY.

No. 153.

Mr. Bayard to Mr. Denby.

No. 247.] DEPARTMENT OF STATE,
Washington, November 4, 1887.

SIR: Your telegram, received here early in the morning of October 27, informs me that in reply to the representations you were instructed

to make with regard to the alleged intervention of China to control or obstruct the diplomatic relations of the United States and Corea, the Chinese Government alleges that Corea is tributary, adding that the King of Corea, having memoralized the Emperor of China, has been authorized to act under the provisions of the treaty between Corea and the United States.

It may be premature, in advance of a full report of the correspondence had by you with the Chinese Government on this subject, to lay down instructions for your guidance. But it is right and proper to suggest a line of thought within which our treatment of the question should be confined. The essential thing is to fix the responsibility of execution of treaty stipulations, and to determine where lies the discretion which guides the acts of independent and sovereign states in their mutual relations. Whether the act performed is obligatory or permissive is not material, so long as it is done by the one contracting party in pursuance of a treaty compact with the other.

The reciprocal sending and receiving of diplomatic and consular officers is provided for in the treaty between the United States and Corea. No act of national sovereignty is more express and decided than this, and it is necessarily an attribute of the power to manage her own affairs, domestic and foreign, which, as the United States were assured when the treaty with Corea was negotiated, belonged to Corea, notwithstanding her tributary relation to China. That treaty sprang, logically, from the announcement of the Chinese Government that its treaties with foreign powers did not extend to Corea, and that it was in no way internationally responsible for any acts of Corea toward foreigners. By treaty Corea assumes that responsibility.

It seems, now, from your telegram, that the accepted sovereignty of Corea in her foreign relations is not absolute. It seems to be claimed by China that one of the simplest and most ordinary provisions of the treaty can not be executed without the King of Corea memorializing the Emperor of China and being accorded permission to do so.

The right to accord permission necessarily involves the right to refuse it, but the exercise of the latter right suggests a responsibility which has not heretofore been admitted and is expressly disclaimed. What would have been the consequence if the Emperor of China, in the exercise of a sovereign claim of right, had refused to allow Corea to maintain a diplomatic mission in the United States?

I do not think the advisers of His Majesty the Emperor have considered the necessary inference from the premises on which they act. For if the treaties of Corea with sovereign States can not be executed without the authority and consent of China, they can not be violated without the responsibility of China.

The Department's instructions to your legation, during the past few years, show the concern felt here at the indeterminateness of the question of China's relation to Corea. The object of this instruction is to impress like solicitude upon you, so that in any discussion affecting this question you may ascertain the real position of China, and avoid any admission that might be construed as approving China's singular claim of ultimate control without ultimate responsibility.

I am, etc.,

T. F. BAYARD.

No. 154.

Mr. Bayard to Mr. Denby.

No. 248.] DEPARTMENT OF STATE,
Washington, November 7, 1887.

SIR: I have to acknowledge the receipt of your No. 445, of September 7, 1887, in the matter of the Ward estate claims against China, and to say that the Department greatly appreciates your able and thorough review of the claim.

I have said to the attorney of Mrs. Amidon, Mr. George O. Glavis, that, after an extended investigation of the case and an extremely careful examination of its circumstances and history, both in this Department and in the Legation of the United States in China, the Department was of opinion that the claim, as presented, was not one which this Government would be justified in pressing further upon the Government of China.

I am, etc.,

T. F. BAYARD.

No. 155.

Mr. Denby to Mr. Bayard.

No. 509.] LEGATION OF THE UNITED STATES,
Peking, November 11, 1887. (Received January 4, 1888.)

SIR: I have the honor to submit a few observations on the monetary and banking system of China.

The stranger, on arriving in China, is struck with the apparent inconvenience of the monetary system, but a short residence tends to create an opinion that the system is well adapted to the people, at least in some respects.

The financial business of the foreigner is done either in Mexicans or taels, as he prefers. Drafts on London are in pounds sterling. His bank account is kept in taels or Mexicans, as may be preferred. Ordinary accounts in the stores in Shanghai are kept in dollars. The commercial business is done mostly in taels. As the price of silver varies every day, the transfer of dollars into pounds, pounds into taels, and taels into Mexicans is bewildering. Usually the tael is worth $1.40 in Mexicans.

China has hitherto resisted all schemes for the establishment of a mint as understood in Western countries. Yet China coined iron money under the reign of Huang Ti, two thousand six hundred years before Christ.

This coin has been replaced by a copper piece called chieu, because it originally weighed a mace (one-tenth tael). This coin and lump silver are the only public signs of the value of products and the only instruments of ordinary barter. The popular name of this coin is "cash."

The monetary system as affecting silver is arranged on the principle of weight, and the divisions have the same names—taels, mace, candareen, and cash. The computation is decimal.

Each cash should weigh, as Williams states, 58 grains troy, or 3.78 grams, but there are in various localities smaller cash in circulation,

and the rate of exchange varies in different parts of the land from 500 to 1,800 for a silver dollar. There are big cash and little cash. The Peking cash passes 5 for 1 silver cent or 500 for $1.

Taking into consideration the immense population of China and the poverty of the people, a good argument may be formulated to sustain the legislator who created "cash." If there was to be but one coin it was necessarily the smallest.

While great weight makes transportation difficult, so that copper coin is not often carried from place to place; on the other hand the incumbrance of quantities of coin is so great that every one seeks to get rid of it.

For transactions to be consummated at a distance the copper coin must be changed for silver, but in small transactions in the various localities its circulation is rapid. It thus happens that silver in the Empire and coin in the districts fulfill exactly the intention of the Government.

In the open ports, and wherever Europeans have a foot-hold, the Mexican dollar readily passes current. At Peking the missionaries, whose dealings are with the poorer classes of people, use exclusively the tael and the cash. But the two foreign merchants located here and the legations habitually keep their accounts in Mexican dollars.

The tael varies in weight in various centers.

The Hai Kuan (customs) tael is the heaviest, and the one with which the Government makes its payments. It is worth $1.22½ gold at the present rate of exchange.

The copper coin, as coined by the Government, never varies in purity. No matter what the value of copper may be, the same quantity enters into the coin. Williams gives the contents of this coin as follows: Alloy of copper 50, zinc 41½, lead 6½, and tin 2, or of equal parts of copper and zinc.

It must be said that the Chinese have succeeded reasonably well in maintaining the equilibrium between silver and cash and between these two metals and the needs of commerce.

Monsieur Simon, who wrote a valuable paper on this subject, accounts for the first result by the non-existence of foreign enterprises which offer to pay large interest on silver, but more particularly by the Chinese law which permits interest at 30 per cent. While this law exists no country can compete with China as a market for silver.

As to the depreciation of silver it depends on many causes and can not be avoided. Its inconveniences are manifold, especially to the poorer classes, whose wages do not increase as the value of silver diminishes. The Government seeks to avoid the effect of depreciation by making new issues of cash. Because the importation of foreign silver tends to diminish the value of silver in the Empire, there is a strong party here opposed to foreign commerce.

It may be remarked that the depreciation of silver is one of the great evils attending commercial operations in China. The European who desires to remit a part of his earnings home, finds that his silver tael varies in value every day. The lower silver goes the less sterling it will buy and the more he loses.

The rate of exchange on London and the demand are the criteria of the profits of the trade with China. It is, therefore, evident that when exchange on London is low, for example, when, as in August, 1886, the Shanghai tael was worth 4*s*. 7¾*d*. instead of 4*s*. 11½*d*., the price in January, 1885, the merchant in China can not get his goods laid down in this market for the same price in sterling as before. The market value of

the goods not having increased he has to bear a loss proportional to the fall in exchange.

The interest laws of China, with which the operations of banking are intimately connected, date from the year 1250 of our era. The enormous rate of interest is curiously defended by several writers. It results, they say, in securing economy in order that the borrower may repay the loan, in producing greater industry, in deterring persons from borrowing, in reducing the number of renters of land, and in increasing the number of land owners, and in inducing circumspection with regard to new enterprises. It is further stated by men of business, that this 30 per cent. is only a maxmum founded on the probability that the oscillations of the price of silver will never exceed that sum. It must be understood, also, that the ordinary rate of interest rarely exceeds 20 or 22 per cent., and money may be had at 12 per cent., though sometimes it exceeds even 30 per cent.

Silver is ordinarily cast into pieces of 10 taels value bearing some resemblance to a Chinese shoe, being a lump hollowed out in the center and raised at the sides and ends. Larger pieces of the value of 50 taels are almost the exact shape of a shoe. They are from 97 to 99 per cent. pure silver. Gold bullion is cast into bars like cakes of India ink, weighing about 10 taels. In the early days of foreign trade the Mexican dollar was cut into pieces as it was in our Western States. Pieces were punched out of it until it lost recognition as a coin. I have seen in the South of China hundreds of these mutilated pieces which are of no use but to be melted into bullion. It is the custom in the South of China to stamp Mexican dollars and they are then called " chopped dollars."

Williams has little to say about the banking system of China, but his views, in the general, are correct. The subject is worthy of more attention than he accorded to it, and is becoming day by day more important. The progress of trade, the necessities of the Empire, and the importunity of foreigners seeking concessions of banking privileges, have latterly attracted the attention of the whole world to banking in China.

There does not exist in China any State bank so-called. The issue of paper money dates back to the earliest historic period. The reader of Marco Polo wearies of the continual and unvarying description given by him of the countries that he visited. The monotonous statement is forever repeated that "they issue paper money and bury their dead." This statement is sometimes all that is said and constitutes a chapter.

Kublai Khan bought everything valuable his people had and paid in paper money, a system much commended by Marco Polo as resulting in the possession of endless treasure without any cost. This system had the usual result, and a rebellion ensued which overthrew the reigning dynasty.

Five hundred years before Christ Government bills, which were utterly worthless, were in forced circulation. In 1455, according to Williams, they were suspended, and, except during the Taeping rebellion in 1858, no bills have been issued since. These bills were current in the capital only. As there is no profit to a government in the business of banking except in the issue of paper money and as only a bank of issue requires special privileges, China has, as a state, nothing to do with banking. There is, however, in each province a private bank which performs the functions of the treasury for the Government and receives the taxes. It requires payment in silver purer than the silver of the locality, and thereby makes 2 per cent. as compensation for its services. These banks are like all other private banks and perform all the usual functions.

There are also private banks of emission, but they are not numerous. They exist chiefly at Peking. They issue notes of as low denomination as 10 cents. Their bills do not pass current out of Peking. These notes are worth more than cash, and a great business is done in exchanging one for the other.

The Government tolerates these banks of issue rather than favors them. In the event of suspension of payment the Government takes possession of the bank and administers its affairs for the benefit of the bill-holders. There are few cases where there are, after failure, any but nominal assets. Usually when disaster comes the banker disappears, as with us, with the assets and the loss is total.

The true Chinese bank is the bank of discount and deposit. These stand high in popular confidence. It does not appear that they derive any great benefit from governmental action.

For aught that can be ascertained to the contrary, these banks are as old as history. Their existence 2,600 years B. C. is well established. The creation of paper money and the existence of banks are contemporaneously described, and, possibly, the coinage suggested the bank.

The insecurity of Chinese houses and the danger from fire made banks of deposit a necessity. All classes in China have bank accounts. The business of the banks is to discount paper, negotiate bills of exchange, to loan money on land or personal property, and to buy and sell the precious metals. There is no governmental limit to their establishment. They sell bills of exchange at short dates to any point in China. The Hong-Kong and Shanghai Banking Corporation, and other foreign banks, have largely interfered with the sale of foreign bills and bills running a long time. The banks ordinarily (except in Peking) pay interest on deposits, sometimes on daily balances. They agree also to give the parties every facility for borrowing. The custom is that a depositor can obtain on his own paper, as a loan, twice the amount of his deposit, but only for a few days' accommodation.

Deposits may be withdrawn at will and interest (except in Peking) received up to date of withdrawal. The foreign banks also pay interest on deposits, but they stipulate for fixed terms. The Hong-Kong and Shanghai Banking Corporation pays 5 per cent. on fixed deposits.

The bank, for a consideration, guaranties the paper of its customers. It sometimes happens here, as elsewhere, that the deposits are ten or fifteen times greater than the capital of the bank.

There exists in Peking a clearing-house system which will compare favorably with that of New York. Each depositor receives from his banker a book with two columns, in one of which will be entered his deposits, and in the other to his debit all the sums he may disburse. He then sends all his creditors to his banker to be paid, and in the evening he sends his book to his bankers. The next morning the clerks of the various banks get together and indicate in their books the various sums that they are to disburse or receive for their patrons. The balances are paid in cash, or are left to stand over on interest until the end of the year.

It is said that the banks assist each other in case of difficulty and extend the time of payment to any solvent bank requiring it.

The system of demanding immediate payment by holders of bills, which has resulted in so many commercial crises in America and elsewhere, does not exist here. The Chinese banker allows ten or fifteen days in which the debtor bank can raise money at home or procure it from the provinces. Failures take place here as elsewhere, but a bank which rests on a solid foundation, that might have been ruined by sudden pressure, secures time to raise funds and save itself.

These financial difficulties ordinarily supervene only at the end of the year, when all debts must be settled. At the time of the Chinese New Year, and at two other periods, the fifth and eighth moon festivals, every man settles up, and to allow a debt to go over these periods is considered disgraceful. Especially does this rule prevail at the Chinese New Year, which occurs in February of our calendar. These great periodical settlements have hitherto had the effect to prevent financial crises such as have occurred in other countries.

It is the practice of the Government to allow its moneys to be deposited with the banks of the best class when any danger is anticipated. Thus, at the end of the year large deposits are made by the Government officials in the banks, to enable them to meet their obligations in cases where there has been unusual stringency in the market.

In cases of general suffering the Government also makes loans of grain to cultivators of land and other necessitous people, to be repaid, with interest, in kind.

There is little counterfeiting of bank bills. Often the depositor waits and sees the bills filled up in sums to suit him. I know one case where a very worthy gentleman thus received notes representing 100 taels in the morning, and the bank closed before night. He came to me, and I presented his case to the Tsung-li Yamên. The Yamên denied all responsibility, but promised to see that the assets were properly administered. A Government officer took possession of the bank, the cashier having fled, but my friend never received a cent of his 100 taels.

Circular letters of credit are issued by the banks, which are good in China where the banks have agencies. Money is remitted from place to place in bills as at home. The rates are much higher than with us, as transportation is private and very costly.

No statistics that I know of are published relative to banks. Bankers are reticent. There is considerable competition between the native and foreign banks, and information as to business is designedly withheld. The branch of the Hong-Kong and Shanghai Bank at Peking keeps large sums on deposit in about twenty banks, but receives no interest thereon.

The native banks "milt" the silver received without charge, which is all the consideration the Hong-Kong and Shanghai Bank receives for its deposits.

The ordinary rate of interest at Peking is 1 per cent. a month.

Silver comes to the capital from the provinces in small wooden logs. The inside is dug out, the silver put in, and the pieces of wood bound together with iron bands, and it is thus carted to the treasury.

Among foreigners in China there is a general desire for coinage and a national bank. The rivalry between the various nationalities is so great that any particular scheme by one nationality is attacked by all the others. This happened, notably, when the Philadelphia syndicate sought to obtain concessions at Tientsin.

In spite of the abundance of banks existing in China, making it a country as thoroughly provided with banks as any country in the world, still the banks often succumb to financial difficulties. Some of their difficulties originate from non-fulfillment of the obligations assumed by the local authorities. This happened recently in Shansi, where, during the campaigns in the northwest, the banks lost many millions of taels. There being no Government bank the private banks can get no relief when it is most needed, except as I have already stated.

It must be remembered, in considering the general question, that the

people and the merchants have little confidence in the good faith of officials. As China is practically divided into twenty-one separate local governments, with almost absolute authority in the viceroys or governors, this want of confidence in financial matters results in serious evils. A national bank would restore confidence and give solidity to financial operations. The leading paper in China, the North-China Daily News, proposes to overcome opposition to a scheme of general or national banking by an organization composed of leading firms in all commercial countries. It proposes that the stock of such an institution be divided up amongst the various nationalities, reserving a large portion for the Chinese. By this means international jealousies would be removed, and the bank would be worked on broad and honest principles.

My judgment is that China will not accede to any such scheme. There is evident purpose on the part of the Chinese rulers to reserve for their country the great franchises of public institutions, such as railroads, steam-ship lines, telegraphs, and banks. This policy is logically correct. The chief objection to it is the delay necessary to instruct and educate this people, which is now earnestly and strenuously striving for improvement and progress.

There seems to be no reason why our banking system might not work successfully in China. If China would intrust the whole subject to some great American financier, I do not doubt that the success which has attended the operations of the imperial maritime customs under Sir Robert Hart would be realized in banking and coinage.

There is no confusion in the world comparable to the financial muddle in governmental operations in China. The immense benefits which would accrue to the Government from a good system in the collection, distribution, and remittance of revenues are patent to all observers. The superintendence of financial matters in China would be a career worthy of any man's ambition. It is needless to say that unimpeachable reputation and great ability would be requisite.

It is well to say also that the accomplishment of such a plan must be worked out by individual effort. The legation could aid only by courtesy and by the private personal influence of the minister. If he had the authority to pledge his Government to any financial scheme it would be unwise to exercise it, but he has no such authority.

Knowing, as I well do, that national pride would be gratified by the prominence of my fellow-citizens in any great work of progress in China, nothing would be left undone by me that is consistent with public duty to forward such a work.

I have, etc.,

CHARLES DENBY.

No. 156.

Mr. Denby to Mr. Bayard.

No. 514.] LEGATION OF THE UNITED STATES,
Peking, November 22, 1887. (Received January 4, 1888.)

SIR: I have the honor to forward to you herein for your information some particulars concerning the terrible inundation caused by the rupture of the levees along the Yellow River in the last week of September of this year. Although the calamity was known of at Peking nearly

two months ago, the reports of the provincial authorities to the Emperor concerning the event have only very recently been given to the public.

The Yellow River, not very far to the west of Kai-feng-fu, the capital of Honan Province, enters an alluvial plain, which undoubtedly owes its origin to the river's deposits, and which spreads to the north and south of the mountainous Shantung Peninsula as far as the sea-coast without an elevation on its surface, save here and there in a sand hillock.

From the prefecture of Honan-fu the Yellow River's deposit commences to be so abundant that the whole bed of the river has been silted up until it is elevated above the surrounding country. For example, at Lung Men Kou, the diverging point of the old and new courses of the Yellow River, Ney Elias states in his "Report on the course of the Yellow River" (1869) that he found the bed of the river with an average elevation above the general level of the neighboring country of about 15 feet.

The immense banks off the mouths of the Yellow River are yet another proof of the tremendous rapidity with which the siltage takes place. The Chinese Times, of October 29, 1887, mentions in this connection that 30 or 40 miles distant from the shore, in the deep indentation of the coast between Che-foo and Taku, soundings that fifty years ago gave 40 feet now show but 18.

This siltage has a most disastrous effect on the arable soil on which it may be deposited, rendering cultivation impossible; consequently wherever the river has passed agriculture is practically ended, and a thinly scattered population is all that is left in once prosperous and densely inhabited districts.

Since time immemorial the Chinese have endeavored to check this river and to keep it in its bed by erecting a continuous line of embankments along its course from the point where the siltage commences down to its mouth. But, notwithstanding the enormous works which have been erected year after year and century after century, the most fearful overflows continually occur, several of them so great that they have changed the course of the river. In the earliest times of Chinese history the Yellow River emptied into the Gulf of Pei-chih-li, near Tientsin, and it followed this course down to the thirteenth century of our era. At that time it changed its course and, taking an easterly direction, south of the Shantung peninsula, it emptied into the Yellow Sea. The river continued to follow this course until 1851, when it again burst its embankments on the north side at Lung Men Kou, and by 1853 it was once more flowing into the Gulf of Pei-chih-li, its general direction nearly parallel to that which it held in olden times.

In the summer of the present year the Tsin, an important left-bank affluent of the Yellow River, which empties into it about 60 miles west of Kai-feng-fu, as also the main stream itself, became greatly swollen by incessant rains, and on the 24th of September the dikes broke in the district of Cheng Chou—a little to the west of Kai-feng-fu. During the succeeding days the breach rapidly increased, notwithstanding every effort on the part of the troops, until it was over 3,000 feet wide, through which the whole river dashed, leaving its former bed dry.

The water flowed in a southeasterly direction through the prefectural districts of Kái-feng and Chen Chou; the Kulu River, down to where it empties into the Sha-ho, being apparently the western limit of the inundation. About 50 miles south of the mouth of the Kulu River the flood seems to have taken an easterly course through the provinces of Anhui and Kiangsu, sweeping down the course of the Huai River, through

the Hungtse Lake, and into the sea by its old mouth east of Tsing Kiang-pu.

The main body of the water followed the course of the Kulu River, and in this section of country the inundation attained a depth of from 10 to 20 feet. In other districts to the east the water was only from 3 to 4 feet.

Reports concerning the damages done by the flood outside of the province of Honan have not so far been published, but in that province alone we learn that about 2,000 towns and villages—which must have a population of at least 2,500,000—have suffered from the flood.

The loss of life appears to have been fearful. The governor of Honan, in a memorial to the Emperor, published in the Peking Gazette of October 28, says:

> Nearly all the people have been drowned in the districts reached by the waters, the survivors being those who escaped to high ground or took refuge in trees, where they remained until rescue came.

In a later memorial the same officer reports that—

> Fortunately the flow of the waters has not been rapid, as the country is quite level. There are, moreover, many sand hillocks, which have afforded a place of refuge and a means of escape to many.

As soon as the accident occurred the provincial authorities took measures to relieve the sufferers, and besides sending boats and rafts in all directions, bearing food and clothing, opened relief establishments, in many of which there are as many as 20,000 refugees.

The Emperor has given orders that about $3,000,000, besides all the grain tribute due in 1888 from Kiang-pei and Kiang-su, as well as its cost of conveyance to the capital be devoted to the relief purposes. These sums, however large, will be far from sufficient to meet the requirements, and the board of revenue has been authorized by the Emperor to forward a constant and unfailing supply of funds to the high authorities of the inundated provinces, so that the work of repairing the breach and providing for the destitute population may be constantly looked after.

It may not seem inappropriate to add here a few details concerning the manner in which the Government provides for maintaining the extensive works along the Yellow River, and what appropriations are made to meet the expenses incurred thereby.

The general management of the works along the Yellow River, within the province of Honan, is intrusted to the director-general of the Yellow River, who has also the superintendence of the grain transport route. East of Honan the river works are under the care of the governor-general of Chihli and the governor of Shantung, through which provinces the river flows. Prior to the change of course of the river in 1852, there were two directors-general, one for the southern division of the river and one for the eastern, who took complete charge of all the works, but since the river has taken its northern course to the sea, the office of southern director-general has been abolished and the eastern one alone retained.

The director-general has under his orders about 2,000 men, belonging to the "Army of the Green Standard," who, besides having to guard the embankments and keep them in repair over a distance of about 160 miles, have certain duties to perform in connection with forwarding grain junks on the Grand Canal, and are also supposed to do garrison work, escort prisoners, etc. Two Taotais are under the direct orders of the director-general, dividing between them the section of river under

his jurisdiction, along the banks of which are seven stations in which are kept detachments of troops to watch the action of the river on the works.

The Yellow River works comprise two categories: First, embankments constructed by the people and at their expense; second, Government works, comprising embankments, supplementary embankments constructed to withstand inundations which have broken through the "people's embankments," side dikes, etc., all of which works, together with their dimensions and the materials to be used in constructing them, are minutely detailed in the Dynastic Institutes.

By a regulation of 1662, which is still in vigor, all the works are under the guaranty of the officer who has built them for a period of one year, removal from office being the penalty visited on him should any of them be destroyed within that limit.

The funds for the works under the orders of the director-general, the pay of his troops, etc., are provided for by fixed appropriations, which, so far as I can learn, have varied but very little during the last hundred and fifty years. Thus in 1730, 670,536 taels (say $704,600) are, according to the Dynastic Institutes, allotted to the river works. In 1876 this allowance, according to the regulations of the board of revenue, is fixed at 757,401 taels (say $908,880).

These fixed appropriations can not, however, be considered as giving the amount annually expended by Government on the Yellow River, for not a year passes that additional sums are not appropriated by special decree for extraordinary works. One million and a half dollars might represent the annual expenditure on account of the Yellow River within that section under the orders of the director-general.

I have no exact means of ascertaining the amounts expended annually by the high provincial authorities of Chihli and Shantung for similar purposes, but from certain figures found in memorials to the Emperor by these officers I think that the expenditures may average about $300,000 a year. This would give us an average annual expenditure on works along the lower course of the Yellow River of about $2,000,000.

It would be tedious to enter into any discussion of the various plans which have at different times been submitted to the Imperial Government for controlling the Yellow River. Suffice it to say that none of those which have been tried have decreased the violence or frequency of the floods. In connection with the present breach it has been decided by the Government that it must be closed and the river turned back to its habitual course.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 514.]

THE YELLOW RIVER.

A memorial of the board of revenue appeared in this morning's Shumpao, proposing six ways and means of raising funds for repairing the recent breach in the Yellow River, in Honan province.

(1) The dismissal of petty officers from the provincial garrisons, as they are not necessary in time of peace, and it will be a saving of nearly 2,000,000 taels to the Government.

(2) The purchase of munitions of war, gun-boats, and machinery from abroad shall be stopped for the present.

(3) The rice allowance of princes, dukes, and all officials in Peking shall be stopped for one year, commencing on the first moon of the fourteenth year of Kwang Hsü.

The soldiers in Peking are to receive their rice allowance, but not the equivalent in money as heretofore.

(4) The soldiers stationed near Honan province shall be ordered to assist in repairing the breach of the river.

(5) The salt merchants of all the provinces shall be called upon to make contributions and get promotion in official rank in return.

(6) The pawn-shops which should pay a yearly tax of 5 taels to the Government should be ordered to pay 100 taels in advance, and then be exempted for twenty years. All the revenue-remitting banks throughout the provinces shall be ordered to pay a tax of 600 taels each.

The first, fifth, and sixth proposals have been already sanctioned by imperial decree.

No. 157.

Mr. Bayard to Mr. Denby.

No. 263.] DEPARTMENT OF STATE,
Washington, December 3, 1887.

SIR: I have received your No. 478, of October 10, last, in regard to mob violence against missionaries at Kwai Ping, and desire to approve your admirable, as well as judicially expressed views upon the subject.

I am, etc.

T. F. BAYARD.

No. 158.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 521.] LEGATION OF THE UNITED STATES,
Peking, December 9, 1887. (Received February 3, 1888.)

SIR: I have the honor to inclose herewith a translation of a memorial presented by the King of Corea to the Emperor of China, which lately appeared in the Shih Pao, a Chinese newspaper published at Tientsin. In substance it is a complete recognition of the vassalage of Corea to China.

It prays that as "an extra act of grace" the Emperor will allow envoys to be sent abroad.

Any remarks offered by me on the relation of Corea to the society of nations must be construed as bearing only on my own country and the country to which I am accredited. I have nothing officially to do with Corea.

Vattel discusses, at page 2, the status of dependent states with reference to foreign powers. This discussion furnishes little information applicable to the peculiar relations existing between China and her dependent states. The text has little application to countries which, in their history, antedate international law, of which, also, they never had any knowledge. What unwritten law or tradition controls the relations of China with her dependencies remains unknown.

I assume that the position of the United States with reference to Corea is contained in Mr. Frelinghuysen's declaration that—

The independence of Corea of China is to be regarded by the United States as now established. (1 Wharton's Digest, § 64.)

Your own dispatch No. 27, of date July 27, 1887, to Mr. Dinsmore, contains this statement:

If, contrary to the expectations of this Government, the progress of Chinese interference at Seoul should result in the destruction of the autonomy of Corea as a sovereign state with which the United States maintain independent treaty relations, it will be time then to consider whether this Government is to look to that of China to enforce treaty obligations for the protection of the persons and interests of citizens of the United States, etc.

The co-equality of Corea with the United States being thus recognized, it would seem that no questions but those of expediency remain.

In the solution of such questions the geographical locality of Corea, its distracted condition internally, its possible relations to Japan, Russia, England, and China, if complete independence be assured, are all to be looked at.

I have, etc.

CHARLES DENBY.

[Inclosure in No. 521.—Memorial from King of Corea to Emperor of China.]

Draft of memorial presented to His Majesty, the Emperor of China, by the King of Corea in the matter of sending envoys abroad.

Li-hsi, King of Chosen (Corea), reverently presents a memorial upon the subject of sending envoys to western countries, requesting that permission be first granted by the issuance of your majesty's mandate to the end that officers may be deputed hence.

Upon the 7th day of the eighth moon (23d of September, 1887), Shen-wu-tse, a councillor (Ling-I-cheng), of the council of state, memorialized the throne that he had, on the same day, received a communication from Yuen Shih Kai, chief commissioner representing the Government of China, stating that he had received a telegraphic message from the grand secretary, Li Hung Chang, to the effect that the Tsung-li Yamên had sent the following edict, issued by the Emperor of China, to wit:

"In the matter of Corea sending diplomatic officers to western countries, it is necessary first to ask our sanction when such officers can be sent, thus acting in accordance with the rules and usages of dependent states. Respect this."

The grand secretary instructed me to make this known to the council of state without delay, so that his majesty's injunctions may be observed.

Having received the above instructions, as in duty bound, the chief commissioner addresses a communication to the council of state and beg that they will peruse the same, and that a memorial be presented (by the King) asking permission (to send envoys abroad) in due observance of imperial instructions.

The King is mindful that the small state over which he presides has for generations been the recipient of favors from the Heavenly Court—favors as high as the sky and as thick as the earth, as exalted as the mountains, and as deep as the sea; that your majesty perceives and understands all things, and he that asks shall receive.

But in the matter of intercourse with foreign nations your memorialist has been the special recipient of your majesty's regard and kindly thoughts toward his dependent state, using your power and strength to elevate and assist her, and permitted her to enter into commercial and friendly relations, first with the United States, and dispatched an officer to assist in the negotiation of a treaty. Further, a dispatch was sent (to the United States authorities) before the negotiation of the treaty clearly setting forth that Corea was a state tributary to China, but that hitherto full sovereignty had been exercised by the Kings of Chosen in all matters of internal administration and foreign relations.

As a dependent state Corea reverently maintains and observes the proper rules of courtesy and respect, but as regards equality and mutual reciprocity with foreign nations, governmental prestige, and international relations, each has full powers.

Later, other western nations negotiated treaties with Corea, all after the terms in general of the United States treaty, and after their provisions were agreed upon by the negotiators a memorial was presented to your majesty asking your sanction and approval. After the United States treaty was ratified, the United States Government, in accordance with the provisions of treaty, sent a minister plenipotentiary to reside at Seoul. Your memorialist in turn sent an embassy of congratulation to the President of the United States, which in due time returned to Corea. But no mission has

ever been sent to the other treaty powers. These powers, in consequence, have frequently represented to the Government of Corea that, as they are represented by accredited agents at Seoul, they invited Corea to send ministers to their courts. Your majesty's dependent state was not unmindful of the urgency of the times, at the same time it was desirous of carrying out the provisions of the treaties.

Your memorialist has now appointed his minister Pu Ting Yang as envoy extraordinary and minister plenipotentiary, and proposes to send him to the United States; also his minister Chao Chen-hsi as envoy extraordinary and minister plenipotentiary, and proposes to depute him to represent Corea at the courts of Great Britain, France, Germany, Italy, and Russia, to be clothed with power to attend to international questions arising in those countries.

Your memorialist, in presenting the foregoing facts, begs that as an extra act of grace your majesty will condescend to give your sanction and approval to the sending abroad of the ministers named, to the end that the question regarding envoys may be settled in conformity with the stipulations of treaty.

Under the existing laws governing Corea, in the matter of tribute and ceremonial, all memorials have been presented to your majesty by the board of rites, but all questions of an international nature (with foreign countries) have been presented to your majesty, in behalf of Corea, either by the prince and ministers of the Tsung-li Yamên, or by the minister superintendent for northern trade, Li Hung Chang. Unless in matters of the utmost importance your memorialist would not venture to memorialize your majesty.

Your majesty's mandate, which has just been communicated by telegram, has been received by your memorialist upon bended knees, and he finds it impossible to express his feelings of gratitude, as well as those of fear.

Your memorialist, instead of withdrawing from troubling your majesty, ventures to present this memorial, and is sincerely quaking with emotions of fear and alarm for your majesty's injunctions.

No. 159.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 529.] LEGATION OF THE UNITED STATES,
Peking, December 20, 1887. (Received February 24, 1888.)

SIR: I have the honor to inclose herewith a communication lately sent by me to the Tsung-li Yamên. It involves a missionary trouble similar to others which are always pending in China.

The facts are briefly that the Presbyterian missionaries at Chi Nan Fu, during last September, October, and November, endeavored to secure a perpetual lease of land for hospital purposes. They claimed that the governor, in 1884, agreed that they might purchase additional land for residential purposes. That, unfortunately, is a mistake.

An examination of the records here discloses that the governor refused to make any such agreement. Acting on this alleged promise and on certain oral statements made by the officials, the missionaries secured a perpetual lease of a lot. They took the lease to the officials to be stamped. They were put off on various pleas and finally notified that, owing to the opposition of the people, the transaction should be considered off. Mr. Reid, representing the mission, then took possession of the premises. He alleges that the family of the lessor consented to this occupation; but the lessor himself was in jail and could not consent.

The twelfth article of the treaty of 1858 requires that "the legal fees to the officers for applying their seal shall be paid." It requires, also, that particular spots shall not be unreasonably insisted on. It is needless to say that it confines renting and hiring to the treaty ports.

Mr. Reid was ejected and injured by a mob. He is now here demanding relief and intimating an intention to demand personal damages.

As I construe section 134, of the Diplomatic Instructions, I have no authority to apply for compensation for him without specific instructions. I judged it best to endeavor to settle the matter and to endeavor to secure for them another tract of land in lieu of the one objected to by the gentry.

The missionaries having demanded that their lease should be sealed and protection accorded, should not, after a distinct notification that they could not be permitted to occupy that particular lot, have taken the law in their own hands by entering on the disputed premises. They excuse themselves by saying that is Chinese law. But, whether it is Chinese law or not, they are bound by the treaty, which requires payment of fees and sealing of the lease preliminary to taking possession of leased land,

The missionaries claim, however, that under the twelfth article of the British treaty of 1858, and the sixth article of the French treaty of October 25, 1860, they, by virtue of the favored nation clause, can settle and lease or buy property anywhere in China.

Diplomatic and consular officers in China are often put at a disadvantage. Their fellow-citizens can not be abandoned even if not always exactly in the right. Hence there are always questions between the two Governments.

The Department has approved on divers occasions of the statement that the treaties confer no legal right on Americans to secure property in the interior. The Department has not, however, distinctly formulated in any dispatch to this legation its views as to the rights of missionaries in the interior of China. It is worthy of consideration by you whether specific instructions, which might be authoritatively communicated to the missionaries, and which might serve as an implicit guide for this legation, should be prepared.

The twelfth article of the treaty of 1858 provides that citizens of the United States may, at the open ports, "rent houses and places of business or hire sites on which they can themselves build houses or hospitals, churches, and cemeteries."

By gradual encroachment this right has been extended to the interior, and whether its exercise should be acknowledged and enforced or repudiated is the chief question in China, and possibly will remain the leading and most annoying question for all time to come.

My policy has been not to encourage adventurous locations in the interior, in fact to announce distinctly that this legation does not construe the treaties as granting unlimited right to buy or lease land in the interior. But if the missionaries, with the consent of the local authorities, effected a lodgment, they would be protected by this legation against any wrongs subsequently perpetrated against them. This was the *rationale* of the Chung King case. I respectfully submit the whole question to you.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 529.]

Mr. Denby to the Tsung-li Yamén.

No. 16.] PEKING, *December* 21, 1887.

YOUR IMPERIAL HIGHNESS AND YOUR EXCELLENCIES:

I have the honor to bring to the attention of your imperial highness and your excellencies the circumstances of a late riot at Chi Nan Fû, in which an American missionary was injured, also certain troubles now existing in the locality with refer-

ence to the purchase by the missionaries of a lot of ground. The missionaries, Messrs. Gilbert Reid, Paul D. Bergen, and Robert Coltman, jr., have made the following representation to this legation:

In an interview with the Taotai, in January, 1886, they sought the aid of the officials in securing ground for a hospital. The governor, to whom the matter was referred by the Taotai, replied that the officials could neither purchase property for the missionaries nor compel the people to sell, but if both parties mutually agreed to a purchase, the purchase could be completed and if any opposition arose it would be suppressed. In July of this year the matter of establishing a hospital was again brought up and referred to the governor and he answered, as before, that the purchase of land might be made if the parties agreed, and that the deeds could be presented to the local authorities to be stamped, and if afterwards any opposition arose the local authorities must suppress it.

In August last the missionaries took a perpetual lease of a piece of property and took the deeds to the Taotai's Yamên, on the 1st of September, to be stamped. The Taotai, in the presence of all, ordered the magistrate to stamp the deed in case there was no illegality in the purchase. He also ordered that the landlord and middlemen should not be annoyed, and that if the neighbors were summoned it should be to ask if the property had been bought from the man as claimed by the missionaries. The next day the landlord and middlemen and one of the missionaries appeared before the magistrate and it was shown that the lease was legal, and the landlord was ordered to vacate his house in two months. The magistrate, however, refused to stamp the deed, saying that he wished to report the case to the Taotai.

During the next few days the two neighbors were summoned, and both said they did not wish the property and were willing that the foreigners should have it. Still the deed was not stamped. Then the magistrate inspected the property.

A petition was then presented alleging that the property was public property, but it was not signed, and the officials refused to accept it. The residents were then granted three days to present any reason why the foreigners should not have the property, and if no such reason existed the property should be taken by the missionaries. No reason was presented in the time limited. Still the deed was not stamped. The deed was therefore sent to the Taotai, but he ordered it taken to the magistrate, which was done, accompanied by a request to stamp it. After waiting three days one of the missionaries went in person to see the magistrate, who excused himself from stamping the deed until the two months should expire which had been allotted for the vacation of the property. In this interview the missionaries requested that the landlord, who had been imprisoned, should be released. The magistrate declined to release him, stating that the man was not locked up, but only summoned to be examined. Up to the present time he has not been released. A few days before the expiration of the two months the gentry, headed by Li Ching Ao, a previous governor of Ho-Nan, presented a petition, objecting to the lease of this particular property as a violation of the treaty and because it was objectionable to the people. After several interviews with the officials the missionaries, at their request, agreed to wait thirty days to allow the officials to procure satisfactory property in exchange for the piece selected. But no offer of exchange was ever made. One of the middlemen was sent to the Yamên and confined in chains. A few days before the month expired a petition was sent to the Taotai, citing the promises and orders previously given and made and showing how they had all been disregarded by the magistrate and asking him to decide justly and to order that, on the day fixed for taking possession of the house, the deed should be stamped, protection given, and the landlord and middlemen released. To this petition no reply was vouchsafed.

Upon the landlord's family having agreed that the missionaries might take possession of the property, they notified the Taotai that the time having expired one of them would go in the evening to the property and take charge of it. He was requested to order the magistrate to protect the occupant. In the evening of November 28 Rev. Gilbert Reid went to the house. In about an hour's time certain ringleaders entered the house and ejected him. He re-entered the house; some thirty of the mob also entered, and some picking up bricks, others sticks, and the strongest seizing him, he was once more forcibly ejected, being thrown to the ground with violence, receiving a severe contusion of the left temple, besides having the skin torn from his hand and arms and suffering from concussion and being hit by stones.

Panting and half unconscious he lay for more than an hour in the street, the uproar continuing, when finally a constable appeared, assisted him to rise and led him to an inn. One of the missionaries immediately went to the Taotai's Yamên, but in spite of his plea of the urgency of the case no interview was granted. The magistrate's Yamên was then visited. The missionary was assured that the magistrate would go to the scene of the disorder and was told to go on before. At the east gate the guardians refused to open the gate. After repeated vain efforts to have it opened, the missionary returned to the magistrate's Yamên. The magistrate did not go to the scene of the mob at all. It was only after a few hours had elapsed, after the magistrate had been notified, that any news was received as to Mr. Reid's condition.

In the morning two of the missionaries went to the Taotai's Yamên to gain an interview, but were refused. Two deputies, however, appeared and told the missionaries that the property could not be vacated for their possession because the gentry were unwilling.

Later an interview was had with the Taotai. The Taotai then made the plain statement that the opposing party was the gentry; that to suppress them was impossible, and that all the missionaries could do would be to accept back again their money which awaited them in the magistrate's Yamên. He also said the governor had no other mode of managing the case.

The foregoing is a plain statement of facts as presented to me by the missionaries, and I submit them for the consideration of your imperial highness and your excellencies, that some remedy may be devised for the wrongs and injuries inflicted.

I respectfully request that four things shall be ordered by your imperial highness and your excellencies to be done:

First. That the ringleaders in the assault on Mr. Reid be punished.

Second. That possession of the leased property be accorded to the missionaries and protection in its occupancy be assured.

Third. That if it shall be held by your imperial highness and your excellencies that it is more desirable to make an exchange of property, and to give to the missionaries another tract in lieu of the one that they have bought, that a suitable and satisfactory tract of land be tendered to them. They desire above all things peace and harmony.

Fourth. That the landlord and middlemen be released. They are evidently guilty of no wrongdoing, and it is a matter of deep regret that they are made to suffer because of their connection with this transaction.

I have, etc.,

CHARLES DENBY.

No. 160.

Mr. Denby to Mr. Bayard.

No. 531.] LEGATION OF THE UNITED STATES,
Peking, December 26, 1887. (Received February 24, 1888.)

SIR: At this time, when civil-service reform is on trial in the United States, a slight comparison of the system with the competitive examination system in China may not be uninteresting.

Under the Chinese system the candidates for office are divided into three grades: "Budding geniuses," "Promoted scholars," and those who are "ready for office." The examination for the first grade takes place in the chief city of each district or hsien; for the second, in the provincial capital; for the third, at Peking.

A fourth examination remains for those who aspire to the distinguished honor of a place in the Imperial Academy.

About 2,000,000 persons are examined every year in China, and about 2 per cent. pass.

The successful students at the district examinations are exempt from corporal punishment, receive all possible social consideration, and are regarded as superior beings. Once in three years they repair to the provincial capital for competition for the second degree. Ten thousand students usually enter the lists.

The "promoted scholars" of all China appear at Peking the succeeding spring. Successful examination there is followed by appointment to an office, which is determined by lot. Another examination, as stated, follows for a position as a member of the Hanlin College, and from these again a laureate is selected, by competitive tests, who is the model scholar of the empire for the season.

There is no restriction as to the age of applicants. Many instances are known of persons of forty, fifty, sixty, seventy, and even eighty years of age attending the examinations.

This system is liable to many objections from a western point of view. It holds out the attainment of official position as the one object of life. In free countries, where so many laudable objects of ambition are offered to the people, wisdom and prudence would discourage a desire for office. It creates a special class devoted to the government and subservient to improper official influence. It takes from the laborious avocations of life vast numbers of men who become consumers instead of producers.

It is by no means a practical system. The examinations are not designed to test the fitness of the applicants for any class of office. They are mostly the same everywhere, and in their subjects are confined to disquisitions on Confucian philosophy, repetition of passages from the classics, ancient history of the dynasties, with occasional treatises on agriculture, poetry, war, and finance.

The examination fixes the status of the successful applicant. He becomes one of the *literati*, a class of people whose anti-foreign proclivities are well known.

The arguments which are usually advanced in favor of this system in China may be summarized under three heads: It serves the state as a safety-valve, providing a career for those ambitious spirits who might otherwise foment disturbances. It operates as a counterpoise to the power of an absolute monarch. It gives the government a hold on the educated gentry and binds them to the support of existing institutions.

It will be acknowledged, I think, on a comparison of this system with civil-service reform in Great Britain and the United States, that exactly opposite ends are designed by the latter, except possibly the second purpose above stated.

In free countries frequent elections furnish a safety-valve for ambitious spirits; there is no absolute monarch to be guarded against, and there is no purpose in increasing the governmental influence, because existing institutions are not in any danger. Party spirit is sufficiently rife in Great Britain and the United States and requires no stimulant. Its zeal is now perhaps excessive. The appeal of patriotism is rather to the conscience of the voter than to faithfulness to party ties.

In western countries examinations in the civil service tend directly to secure the independence of the citizen.

He secures office not through personal abasement to great leaders or favoritism, but as the result of merit. In China these competitive examinations, while based on merit, build up a class entirely subservient to improper official influence.

The practical methods are also decidedly better with us than in China. The examinations here are at stated periods for often as many as 10,000 applicants at a time. They cover all over the empire the same general subjects. Only abstract knowledge is considered. The subjects of examination have no reference to any particular class of office. The successful applicant may enter any branch of the civil service.

Under our system all this is changed. Each examination is practical and tests the fitness of the applicant for the special official service that he desires to enter, whether it be the customs, the Treasury, the Post-Office Department, the Patent Office, or any other.

In our system official influence is sedulously guarded from abuse. There is no such check here.

Here it is distinction in abstract scholarship which insures official appointment.

There is no good reason why great scholars should alone administer the government to the exclusion of the masses whose means or opportunities have not enabled them to become graduates of colleges.

Under our system, while high education is not a bar to success, it is not the only qualification or sometimes the most important. The civil-service act of 1883 provides for an examination of the fitness of the applicant. He may be eminently fit for the discharge of many duties, and yet be comparatively unlearned in letters, history, or languages.

That the Chinese system encourages education must be admitted. So far it is better than no system.

It is plain that the Chinese themselves have seen the defects in the subjects of study and examination. They have lately given to the sciences a place in their curriculum, not obligatory it is true, but open to candidates who are to receive appropriate recognition.

This entering wedge of reform may enable the Chinese Government to build up a perfect system on the good foundation which was laid thousands of years ago.

Our system has been attacked as being a copy of the Chinese plan. But even this cursory comparison demonstrates that the objects and machinery of civil-service reform are entirely different from the Chinese competitive examinations. The different governmental conditions of the two countries demand different treatments. Our aim is to guard against the despotism of party; the Chinese rather seek to uphold the despotism of the emperor. Our aim is to fill the offices with independent men who are fit for the discharge of their duties.

The Chinese seek to perpetuate an educated class, and do not seek individual fitness.

Herein lies one of their great troubles. It happens every day that distinguished scholars who know nothing of engineering science are sent to superintend the public works; civilians are put in charge of troops or ships, and men are made judges who know nothing of law.

Under a complete civil-service system, like that of England or British India and our own law, as far as it extends, such absurdities are impossible.

I have, etc.,

CHARLES DENBY.

No. 161.

Mr. Denby to Mr. Bayard.

No. 533.] LEGATION OF THE UNITED STATES,
Peking, December 28, 1887. (Received February 24.)

SIR: Recurring to my dispatch No. 529, of date the 20th instant, I have the honor to inclose a translation of the Yamên's reply to my communication regarding the recent missionary trouble at Chi Nan Fu, by which you will observe that instructions have been sent to the Shantung authorities to clearly investigate and properly manage the affair.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 533.—Translation.]

The Tsung-li Yamên to Mr. Denby.

No. 19.] PEKING, *December* 26, 1887.

YOUR EXCELLENCY: Upon the 21st instant the prince and ministers had the honor to receive a communication from your excellency citing the circumstances of a riot

at Chi Nan Fu, which occurred on account of the lease of property by American missionaries, in which one of them was informed that one of the middlemen to the transaction was confined in chains; that the magistrate had disregarded the promises of the Taotai and that all the missionaries could do would be to accept back the money. Your excellency requested that the Shantung authorities be instructed to provide some remedy for the wrongs and injuries inflicted, and proposed four things be ordered by the prince and ministers to be done, etc.

The prince and ministers would state that it appears that there is no record of the case in question having been reported to the Yamên. But now having received your excellency's communication narrating the circumstances, the prince and ministers have addressed the governor of Shantung requesting him in turn to instruct the Taotai at Chi Nan Fu to clearly investigate and properly manage the affair. As in duty bound the prince and ministers send this communication in reply for your excellency's perusal.

No. 162.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 539.] LEGATION OF THE UNITED STATES,
Peking, January 7, 1888. (Received March 3.)

SIR: I have the honor to state that I have sent to each consul a copy of the inclosed circular.

I regret that I can not procure for the Department a copy of "Treaties between the Empire of China and foreign powers, together with regulations for the conduct of foreign trade," etc., edited by William F. Mayers, Chinese secretary to Her Britannic Majesty's legation at Peking. This book was published in 1877 by the North China Herald, Shanghai, and was for sale in London by Trübner & Co., 57 and 59 Ludgate Hill. I am informed that it is out of print in China.

I understand that the customs is preparing a book containing all the treaties, which I will send to the Department as soon as it appears.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 539.—Circular.]

LEGATION OF THE UNITED STATES,
Peking, January 7, 1888.

To the CONSULS:

SIR: The act of Congress approved February 23, 1887, entitled "An act to provide for the execution of Article II of the treaty concluded between the United States of America and the Empire of China on the 17th day of November, 1880," etc., will be enforced by the consuls as far as it provides for the infliction of a personal punishment or fine for violation of its provisions.

The jurisdiction of the consuls for that purpose is held to be exclusive.

In respect to the confiscation of opium you will be governed by the eight rules which have long governed confiscation proceedings in China, and which make provision for the recognition of her acknowledged rights and interests in the matter under the treaties. These rules provide for a trial before the consul of the foreign power whose citizen is interested and an officer of the customs, and for an appeal to the minister and the foreign office.

For convenience I refer to page 527, Part I, Diplomatic Correspondence, 1868, and a book entitled "Treaties Between the Empire of China and foreign powers," edited by William F. Mayers, page 216.

These rules were agreed to and promulgated at Peking the 31st May, 1868.

I am, etc.,

CHARLES DENBY.

No. 163.

Mr. Denby to Mr. Bayard.

No. 541.] LEGATION OF THE UNITED STATES,
Peking, January 10, 1888. (Received March 3.)

SIR: I have the honor to inform you that some time last year an agent of the French Panama Canal Company came to Hong-Kong for the purpose of hiring Chinese coolies for the company's works. The governor-general at Canton, to whom he submitted the question, while stating that he had no objection to raise against hiring Chinese laborers for the Panama works, said that the subject must first receive the approval of the Imperial Government.

The French agent, together with a member of the English firm of Jardine & Matheson, to whom he had been recommended, then went to Tientsin and submitted the question to Li Hung Chang. This official declared against the scheme, saying that China had enough enterprises in which she could kill her people without being obliged to have recourse to the Panama Canal.

The question was then submitted by the French minister to the Tsung-li Yamên, but I learn that no understanding has been reached.

In the mean while I learn that a French Government transport has left Hanoy, in Tongking, with a load of coolies for Panama, and that others will shortly follow, it being found that by shipping them from French territory the sanction of the Peking Government is not quite so indispensable.

I have, etc.,

CHARLES DENBY.

No. 164.

Mr. Denby to Mr. Bayard.

No. 545.] LEGATION OF THE UNITED STATES,
Peking, January 12, 1888. (Received March 3.)

SIR: I have the honor to report that the Shanghai general chamber of commerce lately addressed a communication to the dean of the diplomatic corps requesting the intervention of the ministers in the matter of bonded warehouses at Shanghai.

The chamber resolved that any scheme for the establishment of bonded warehouses which did not permit the bonding of all wharves and warehouses, or such as were prepared to accept and comply with the regulations, was against public policy and constituted an interference with trade and vested interests.

The ministers were requested to use their influence to induce the Chinese Government to rescind its edict, which designates the warehouses of the China Merchants' Navigation Company as the sole bonded warehouses and secures to that company the monopoly of the storage of goods.

The ministers are much inclined to favor the private bonded warehouse system as now in force in western countries; but they recognize that the establishment of bonded warehouses at all is a step forward which has only been reached after years of endeavor.

They take it for granted that after the present system has been put in operation and its benefit to commerce realized, it may and will, probably, be extended.

Recognizing that China has the abstract right to designate any warehouse it may select as a public bonded warehouse, they have, therefore, through the dean, advised the chamber that they decline at this time to press on the Chinese Government the propriety of permitting all warehouses to be bonded, but should results show that the general commerce requires an extension of the system, the ministers will use their influence to secure such extension.

I have, etc.,

CHARLES DENBY.

No. 165.

Mr. Denby to Mr. Bayard.

No. 548.] LEGATION OF THE UNITED STATES,
Peking, January 17, 1888. (Received March 17.)

SIR: I have the honor to forward to you, herewith, a clipping from the North China Daily News giving the provisional regulations published by the Chinese maritime customs for the bonding of goods.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 548.]

BONDED WAREHOUSES IN CHINA.

GENERAL REGULATIONS FOR BONDING.

The commissioner of customs sent us yesterday the following regulations, which come in operation on the 1st of January:

The Chinese Government having assented in the revised German treaty to the experimental establishment of bonded warehouses at Shanghai, the following provisional regulations have been drawn up. They are divided into four sections, according as they affect—1, vessels; 2, cargo; 3, the custom-house; 4, the bonded warehouse:

1. *Rules for the guidance of German vessels.*

1. After arrival and consular report, the import manifest of German vessels are to be lodged with the customs.

2. When the consul's report has been received, the manifest handed in, and permits to land applied for and issued, the vessel will be allowed to discharge.

3. When import cargo has been discharged, export cargo shipped, and dues and duties paid, the customs clearance will be issued. The customs will enter on the clearance the amount of import duties paid on foreign goods and the number of packages of foreign goods bonded upon which duty has not been paid.

4. The rules regarding export duties, coast trade duties, and tonnage dues remain as before.

2. *Rules for the guidance of importers.*

5. A distinction is made between a vessel's import foreign cargo and her native cargo. While foreign goods may be bonded or not, at the importer's option, native goods will be treated as before, *i. e.*, released upon payment of duty, and will not be allowed to be placed in bond.

6. Foreign goods may, at the importer's option, be either treated as before, *i. e.*, pay duty and be released, or may be bonded. The importer must state on his import application in addition to the description, number of packages, weight, and value of the

goods, on which goods he wishes to pay duty and on which he wishes to defer payment, in order that the customs may know whether to issue a duty memo. or a bonding permit.

Local rule 1.—An application for general discharge permit will be held to be an application for importation on payment of duty.

7. The importer must in all cases obtain a bonding permit before landing his cargo and placing it in bond.

Local rule 1.—Goods for which a bonding permit is issued must be taken direct to the bonded warehouse.

8. If the importer wishes to take samples of goods placed in bond, he must first obtain a sample permit from the customs before opening the packages. The bonded warehouse keeper will, upon production of this sample permit, allow the packages to be opened and samples taken, and the original packages will then be closed in whatever way the importer and warehouse keeper may agree upon.

9. When the importer wishes his goods, or any portion of them, to be released from bond, he must supply the customs with a description of the goods, number of packages, weight, value, date of bonding, name of importing vessel, destination, name of exporting vessel, etc., when applying for duty memo., release permit, or shipping permit. Goods for sale in Shanghai, or for re-export to a Yangtze port, must pay import duty before being released from bond. If intended for re-exportation to other treaty ports, or to a foreign port, they will not be required to pay duty before quitting bond.

Local rule 1.—Goods for which a permit to ship in bond (non-duty paid) or a permit to withdraw from bond for shipment is issued must, in case of failure of shipment, be taken direct to the customs jetty for examination; application to withdraw from bond for import must then be made for such shut-out cargo.

10. Goods removed from the bonded warehouse without a permit will be confiscated, and the proprietors of the bonded warehouse will be responsible for the amount of the duty leviable.

11. Twelve months are proposed as the limit during which goods may remain in bond. If not applied for by the importer at the expiration of that period, the proprietors of the bonded warehouse must pay the import duty and remove the goods elsewhere.

12. The insurance of bonded goods, warehouse charges, and indemnity for fire or loss, are matters to be arranged between the proprietors of the bonded warehouse and the importers, and do not concern the customs.

3. *Regulations to be given effect to by the customs.*

13. Seeing that German vessels will arrive with cargo which is, and with cargo which is not, to be bonded, the customs must first receive the consular report and import manifest before issuing permits to discharge, etc.

14. On application from the importer to bond foreign goods, the customs will issue the bonding permit with the permit to land.

15. On application from the importer, the customs will issue a sample permit to open packages in bond for the purpose of taking samples.

16. When the importer desires to dispose of bonded goods in Shanghai, or to re-export them to a Yangtze port, the customs will, upon application, issue a duty memo., and upon production of the receipt will grant a release permit, and, if required, a Yangtze export permit.

17. Upon application from the importer to re-export bonded goods to a treaty port, other than a Yangtze port, or to a foreign port, the customs will issue a release permit and an export permit.

18. The customs will enter on the clearance of each German vessel the amount of import duty paid, and the number of packages placed in bond on which payment of duty is deferred.

19. The form of bond to be entered into by the proprietors of the bonded warehouse, the books to be kept there, the arrangements for either permanently stationing customs officers at the warehouse or for periodical inspection, as well as the rule for the daily routine of work at the warehouse, will be decided by the Shanghai customs as circumstances require.

20. In the quarterly returns of revenue the duty paid on goods released from bond is to be entered in the return for the current quarter; and in the annual trade returns such goods are to be entered under their proper flag. Goods remaining in bond are to be treated, as regards these returns, as yet not imported.

4. *Rules to be observed by the proprietors of bonded warehouses.*

21. The proprietors of warehouses appointed by the Shanghai customs to store goods in bond must enter into bonds in which they bind themselves to observe all the regulations of the Shanghai customs, and engage that no goods shall enter the

warehouse without a permit, and that, once in the warehouse, goods shall not be opened or released without the proper permit; and in the event of goods being so opened or released without permit, the said proprietors bind themselves to pay a fine of so many times the duty leviable on the goods concerned.

Local rule 1.—Bonded warehouses shall be exclusively reserved for the storage of bonded goods.

Local rule 2.—Warehouses now authorized by the Shanghai customs to store goods in bond are as follows, viz:

Warehouse No. 14 at the China Merchants' Steam Navigation Company's lower Hongkew wharf, for the storage of bonded cargo *ex* vessels moored at that wharf, and where arrangements will be made for the reception, landing, and storage of bonded goods, water-borne, from vessels not moored at that wharf.

The bonding of other warehouses will be made known to the public by a notification displayed at the custom-house.

Local rule 3.—Each door of every bonded warehouse shall be marked in conspicuous letters with the word "bonded;" and each such door will be provided by the customs, but at the expense of the warehouse proprietor, with a second lock, the key of which shall remain in the hands of the customs officers.

22. The proprietors of bonded warehouses must keep books, the form of which will be determined by the customs, in which must be recorded particulars of all goods which enter and leave the warehouse, as well as full particulars of the opening of packages for the purposes of taking samples.

23. Custom officers, whether permanently stationed at the warehouse or coming for the purpose of inspection, shall at all times have access to, and be at liberty to examine, both books and cargo without hindrance on the part of the proprietors of the bonded warehouse.

24. Goods for which the importer has obtained a bonded permit will be checked on arrival at the bonded warehouse by the warehouse keeper in the presence of the customs officer before being stored. At the same time an entry will be made in the warehouse book, and the bonding permit will then be receipted and handed to the customs officer to be filed.

25. On the presentation by the importer of a sample permit to take samples, the bonded warehouse keeper must inform the customs officer, in order that both may be present when the packages are opened and the samples extracted. On the packages being reclosed, the warehouse keeper must make a full entry in the book kept for the purpose, and then hand the sample permit to the customs officer to be filed.

26. When the importer brings to the bonded warehouse a release permit for goods to be disposed of in Shanghai or re-exported to a Yangtze port it will be the duty of the warehouse keeper to inform the customs officer, in order that both may personally see to the release of the goods. The warehouse keeper must at the same time enter the particulars in the prescribed duty-paid book, and then hand the release permit to the customs officer to be filed.

27. When the importer brings to the bonded warehouse a release permit for goods to be re-exported to a treaty port other than a Yangtze port, or to a foreign port, it will be the duty of the warehouse keeper to inform the customs officer, in order that both may personally see to the release of the goods. The warehouse keeper must at the time enter the particulars in the prescribed re-export book, and then hand the release permit to the customs officer to be filed.

28. Twelve months is proposed as the limit during which goods may remain in bond. At the expiration of that period, if the importer has not applied for his goods, the proprietors of the bonded warehouse must pay the import duty and remove them elsewhere.

29. The storage and custody of goods in the bonded warehouse, warehouse charges, insurance, etc., are declared to be private matters to be arranged by the proprietors of the bonded warehouse, and do not concern the customs. The customs, however, are to be kept informed of the warehouse rules.

The above regulations are provisional and subject to alteration, or cancellation, as the Shanghai customs may from time to time decide to be necessary. The four main divisions, however, are to be maintained.

No. 166.

Mr. Denby to Mr. Bayard.

No. 551.] LEGATION OF THE UNITED STATES,
Peking, January 21, 1888. (Received March 17.)

SIR: I have the honor to inclose herewith a translation of a letter from the King of Corea to the Viceroy Li Hung Chang, which appeared

in the Shih-pao, a Chinese paper published at Tientsin, January 13, 1888.

The King states that as soon as his envoys have performed the duty of offering their congratulations, he intends to recall them and leave chargés d'affaires in their places; that they will be instructed to show the greatest respect towards the minister of China.

He recites the imperial decree in which it was laid down that the position of Corea toward China, as well as her international relationship, must be preserved; the etiquette of a dependent country must be observed in intercourse with the ministers of China by consulting them in all matters not expressly provided for. He cites the rules laid down by the Viceroy that the Corean envoy should present himself first at the Chinese legation and ask an introduction on his arrival; that the Corean minister must take his place after the Chinese minister on official occasions, and must be guided in all matters by the Chinese minister. These, he says, are the duties of a dependent nation towards its suzerain.

He goes on to cite other comments of the Viceroy, all enforcing vassalage of Corea to China. He assures the Viceroy of his intention to maintain his position towards China as well as his international relations, and promises conformity to the views of the Viceroy and renews his admiration, etc.

He has adopted the rules laid down for him and ordered his envoys to be guided by them.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 551—Letter from King of Corea to Viceroy Li Hung Chang, published in Shih-pao January 13, 1888.]

The King of Corea makes a communication.

On the 11th of November our foreign secretary, Chao Pingwu, reported to us the arrival on that day of a dispatch addressed to him by Yüan, Chinese resident in Corea. It appeared from the dispatch that on the 9th of November, at 8 p. m., the resident had received a telegram from your excellency in reply to one sent earlier by himself. Your excellency took note of the statement made by us, that the appointment of ministers plenipotentiary to European courts having already been announced to the representatives of those courts in Corea, and reported by them to their respective Governments, it would be unadvisable to change the title of our envoys, as such a proceeding would appear strange, but as soon as our envoys had performed the duty of offering our congratulations, it was our intention to recall them and leave chargés d'affaires in their places, as being a more economical plan, and we should instruct our envoys on arriving in any foreign country scrupulously to adhere to the old etiquette and show the greatest respect towards the minister for China.

Your excellency was pleased with our compliant tone, and desired to make a special effort to accommodate our wishes. An imperial decree, however, had been issued to you in which it was laid down that, when the envoys were dispatched, both the position of Corea towards China and her international relationships must alike be preserved; the envoys must observe the etiquette of a dependent country in all their intercourse with the ministers for China, consulting them and making reference to them in all matters not expressly provided for, so that perfect harmony might be maintained. Your excellency therefore felt bound to lose no time in framing three rules; first, that a Corean envoy on reaching any country should present himself at the Chinese legation to announce his arrival, and request the Chinese minister to introduce him at the foreign office, but afterwards it would not be necessary to follow this course; secondly, that at receptions at court, official banquets and other entertainments, the Corean minister must take his place after the Chinese minister; and, thirdly, that in international matters of serious importance the Corean minister must privately consult the Chinese minister beforehand and be guided by his views.

These, your excellency said, were all matters regarding the relations of a dependent nation with its suzerain, in which other powers were not concerned and with which they could not interfere; and they were what was meant in the decree above quoted when it spoke of matters not expressly provided for, and of the maintenance of perfect harmony.

Your excellency added, that the welfare of Corea was inseparable from that of China. The Chinese ministers were honorable men in high position, who would not fail to show complete courtesy to their Corean colleagues. Your excellency desired the resident here to make this known to our foreign secretary in order that it might be communicated to us, and that we might, without fail, issue instructions to our envoys in the sense desired. On the arrival of our dispatch itself, your excellency would again send us a reply.

Your excellency's letter shows that you have followed His Majesty the Emperor's kindly policy of protecting the weak, sympathizing as much as possible with our country in its troubles and graciously assenting to our request for the retention of the title of the envoys, so that our faith may be preserved in the eyes of the world and no grounds be given for suspicion to foreign nations.

Henceforth both our position toward China and our international relations will be maintained, the gods of our country will enjoy perpetual peace, and a stop will be put to troublesome remarks.

All this is due to your excellency's unceasing desire for the complete protection of our interests, for which we shall ever feel the most lively gratitude.

At the end of this month we shall give orders for the departure, first of Pu Ting-Yang, our envoy plenipotentiary to the United States, and then of Chao Chen-hsi, our envoy plenipotentiary to Great Britain, Germany, Russia, Italy, and France, in order that they may perform their appointed duties.

We have carefully studied the three rules drawn up by your excellency in conformity with the Imperial decree, and we are more than ever filled with admiration at their adequacy and completeness.

We have directed our foreign secretary to reply to the resident, informing him of our immediate adoption of the rules, and we have ordered the two envoys to be guided by them. We at the same time feel bound to convey our thanks direct to your excellency, and request you to address His Majesty the Emperor on our behalf, in accordance with the terms of this letter.

No. 167.

Mr. Denby to Mr. Bayard.

No. 553.] LEGATION OF THE UNITED STATES,
Peking, January 26, 1888. (Received March 17.)

SIR: I have the honor to inclose herewith a copy of my communication to the Yamên on the subject of the obstruction in the Canton River.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 553.]

Mr. Denby to the Foreign Office.

[To be sent before the 26th January in the form of an official "white" note.]

After consultation with my colleagues I have the honor to present to your highness and your excellencies the following additional observations relative to the removal of the Shalu barrier at Canton and the measures proposed by the Chinese Government to alleviate the injury caused to foreign commerce by the artificial obstructions erected in the river by the provincial authorities.

It is one of the principles of international law which during the last half century has had more than one practi al application that, while the right of a government to take such measures for the defense of its territory as it may consider necessary even to the detriment of alien interests may not be questioned, such government is expected, the cause for the extraordinary measures adopted by it once having disappeared, to replace matters as they were before the necessity for such measures arose, and especially to remove immediately any obstructions in the channels of commerce to free intercourse which may have been erected for purposes of defense.

This rule applies equally to the state of things in the Canton River.

Canton has been opened by treaty to foreign trade. Large sums have been spent there by foreign merchants for the erection of dwelling houses and godowns, and it is, therefore, only just and equitable that these obstructions which have been erected in the river of Canton for purposes of defense should be removed now that the necessity for them has disappeared.

The proposition of the provincial authorities to station a customs assistant of the fourth class at Whampoa, which your highness and your excellencies have seen fit to transmit to me, would have been very well if it had been put into force for a short time before the removal of the barrier could have been undertaken, but it can not be thought of as an equivalent for the losses and delays which foreign shipping has to suffer in the Canton River in consequence of the non-removal of the obstructions placed in it.

I can therefore only most earnestly request your highness and your excellencies to forward to the provincial authorities at Canton with as little delay as possible the necessary instructions for the removal of the barrier at Shalu.

If, as it might seem from a passage in the last communication of your highness and your excellencies to me on this subject, that an erroneous impression has been produced upon the mind of His Majesty the Emperor on this subject by an incomplete or one-sided report from the provincial authorities, I trust that the impression will be removed by your highness and your excellencies placing before the Emperor not only the facts of the case as I have had the honor to place them before you, but also the political consequences which are likely to result in future from a non-compliance with a generally recognized international rule as well as from a violation of treaty stipulations by which, with the express sanction of His Majesty the Emperor, Canton has been opened to foreign trade and navigation and has to remain so. Your highness and your excellencies will allow me at the same time to point out to them that the necessity of appealing to His Majesty the Emperor for reconsideration of this subject might have been spared to the Tsung-li Yamên, if, as it is the case everywhere else, questions having an international bearing were not decided upon a report from the provincial authorities alone, without having been first submitted to the Tsung-li Yamên, to whom the foreign ministers have to look as the representatives of the Chinese Government in its international relations.

I avail, etc.,

CHARLES DENBY.

No. 168.

Mr. Denby to Mr. Bayard.

No. 554.] LEGATION OF THE UNITED STATES,
Peking, January 26, 1888. (Received March 17.)

SIR: I have the honor to inclose herewith a copy of my communication to the Yamên on drawback certificates on the Yangtse.

I have only to state in addition that the consideration of this question by my predecessor in 1883 resulted, December 19, 1883, in the adoption of a set of rules by the Government.

The first rule was—

Drawbacks, whether for native produce or foreign imports, issued after the 1st January, 1884, may be cashed or tendered for duties of any kind at the option of the holder.

This rule was acceptable to the foreign merchants generally, but it was canceled February 25, 1884. The only reason for this cancellation was that the redemption of drawbacks would be detrimental to the customs revenues.

In addition to the arguments advanced in the communication now sent, it may be stated that shippers are compelled to insure the drawbacks. As matters now stand, if a cargo intended for exportation is lost in transit to Shanghai, the drawback certificate never issues, and the half duty paid is lost. Hence the otherwise needless expense of insurance.

Altogether it is estimated that on the one article of hides, which are largely exported from Hankow, the drawback system produced a loss to the shippers of 1,700 taels in 1886.

A serious effort will now be made by the ministers to restore Rule I, above cited.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 554.]

Mr. Denby to the Foreign Office.

Informal.] JANUARY 23, 1888.

YOUR IMPERIAL HIGHNESS AND YOUR EXCELLENCIES:

For a long time past the way in which the rule contained in article 5, section 1, of the revised regulations (of 1862) of trade on the Yangtze Kiang has been carried out, has given rise to numerous complaints on the part of the foreign mercantile communities at the Yangtze ports.

Under this rule the shipper of native produce at a river port, on board a steamer provided with a river pass, must pay both export and coast-trade duty. If the native produce is exported from Shanghai within the twelve months allowed, the shipper obtains from the Shanghai customs a certificate of its re-exportation, on production of which at the river port of shipment the customs at that port issue a drawback for the amount of coast-trade duty paid.

This rule imposes already a certain amount of hardships upon the foreign exporter, as he has to deposit with the Imperial Chinese customs the amount of coast-trade duty, even for goods intended from the beginning for exportation, but the injury done to the foreign exporter becomes still more apparent when one bears in mind that the drawback granted to the exporter on production of the Shanghai certificate is neither exchangeable for ready money nor can it be used for the payment of other duties than coast-trade duties. The consequence of this state of things is that the exporter has either to keep his drawback certificate for many months, until he finds an opportunity for using it again, or has to sell it to a third person at a considerable loss, amounting often to more than 4 per cent.

A remedy to this state of things, very injurious to the foreign exporter, could be easily found if the Chinese Government would consent to make the drawback certificates for coast-trade duty exchangeable for ready money, as is the case with drawback certificates for import duty.

It seems hardly just and equitable that the customs authorities should withhold from the foreign exporter money which, after all, has been deposited with them only as a security, and which should be returned to him as soon as he has proved to the satisfaction of the customs authorities that the goods shipped by him from the river port have been exported from Shanghai.

Under these circumstances, I venture to hope that the facts which I have had the honor to place before your highness and your excellencies will meet with your favorable consideration, and that you will see your way of doing away with a practice which, while unprofitable to the Chinese Government, constitutes in fact a great hardship for the foreign exporter.

I avail, etc.,

CHARLES DENBY.

No. 169.

Mr. Denby to Mr. Bayard.

No. 555.] LEGATION OF THE UNITED STATES,
Peking, January 26, 1888. (Received March 17.)

SIR: I have the honor to inclose herewith a copy of my communication to the Yamên relating to the camphor monopoly by the Government in Formosa.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 555.]

Mr. Denby to the Foreign Office.

No. 4.] JANUARY 25, 1888.

YOUR HIGHNESS AND YOUR EXCELLENCIES:

In 1869 the then British consul at Taiwan Fu concluded with the local authorities an arrangement by which the camphor trade, until then a monopoly of the Chinese Government, was thrown open to merchants in general. This agreement was accepted by the Chinese Government and communicated by the Tsung-li Yamên, with the rules and regulations thereto, to the foreign legations.

Until 1886 this arrangement had worked satisfactorily to all parties concerned, when in this year it was withdrawn by order of his excellency the new governor of Formosa. Without authorization, or even instructions from the Chinese Government or the foreign legations, both parties to the agreement in force, even without previous information to the foreign merchants, to the foreign consuls, yea, even to the Chinese local authorities, the rules in force for nearly twenty years were abolished and the government monopoly, or more properly speaking, the monopoly of the provincial exchequer, re-established. Camphor transported from the interior to Taiwan Fu under transit passes was seized and confiscated and the protests and reclamations of the owners as well as of the consuls left unnoticed. The Tsung-li Yamên, on being appealed to, declared without hesitation that the arrangement in question, concluded in 1869, having obtained the sanction of the imperial government could not be set aside by the provincial authorities, and that these latter would be called upon to explain their action. There the matter has rested ever since it was first brought to the knowledge of the Tsung-li Yamên, and the provincial authorities without minding in the least the instructions they may have received from the Tsung-li Yamên, simply continue to ignore the former international arrangement and to act upon their own judgment.

This way of proceeding on the part of the provincial authorities throws a very clear but very unsatisfactory light upon the relations existing on one side between the foreign representatives and the Tsung-li Yamên, on the other between that body and the provincial authorities. Everywhere else the minister of foreign affairs is the representative of his government in its relations with foreign powers; he takes the orders of his sovereign or chief magistrate of his country for the transaction of international business, and his decisions and declarations on such questions engage and bind his government. Here in Peking the situation is utterly changed. The Tsung-li Yamên seems to have no power with regard to the provincial authorities, or at least not to be willing to exercise it. Its decisions are simply ignored by the provincial authorities, and its functions seem to consist principally in transmitting complaints from the foreign legations to the local authorities and *vice versa*, in the latter case very often in a form which goes far to prove that no supervision or discretion has been exercised by the Yamên even in this office of intermediary.

If for once the Yamên should come to a decision on a point, its orders are generally put aside entirely or partly by the provincial authorities, and worse even, questions of the greatest national importance are settled over the head of the Yamên by a direct reference of the provincial authorities to the throne.

Your highness and your excellencies will easily understand that such a state of things must be fraught with difficulties and dangers to the international relations of China. It has been at the express demand of the Chinese Government and with the express understanding that the Chinese Government was willing and in a position to assume the duties and responsibilities of a central government, that the foreign powers have consented to do away with the direct applications for redress that used to be addressed formerly to provincial and local authorities. But the assurances given by the Chinese Government have been left in many respects unfulfilled, and out of the indefinite performance of these duties has grown delay in the dispatch of public business between the Yamên and the legations.

It is with great diffidence that I have ventured to speak thus frankly to your highness and your excellencies, but I can not disguise the fact that serious difficulties, if not dangers, may arise from the position actually occupied by the Tsung-li Yamên. The way in which I have had the honor to lay the state of things as understood and judged by me before your highness and your excellencies, will enable you, if necessary, to obtain by representation to the throne greater power or another constitution, if either in your opinion shall be necessary, to allow the Yamên to act the part of a foreign office such as it is generally understood and necessary for the maintenance of international relations.

But while leaving the decision of this question to the wisdom of your highness and your excellencies, I have the honor to request you to issue without delay to the provincial authorities of Formosa the necessary instructions to abolish immediately the

provincial monopoly on camphor illegally re-established by them, and to revert to the execution of the arrangement of 1869 as agreed upon between the Tsung-li Yamên and the foreign legations.

I avail, etc.,

CHARLES DENBY.

No. 170.

Mr. Denby to Mr. Bayard.

No. 556.] LEGATION OF THE UNITED STATES,
Peking, January 26, 1888. (Received March 17.)

SIR: I have the honor to inclose herewith a copy of my communication to the Yamên.

The statement of the rights of foreigners and the taxation on foreign goods is forcibly and clearly made by the dean of the diplomatic body.

The ministerial body is largely indebted to him for his able presentation of the important questions handled in this communication and in those which precede it.

I rejoice to see the ministers take up unanimously and seriously all these questions.

Sir John Walsham, Mr. von Brandt, and I have at divers times presented most of these subjects to the consideration of the foreign office, but they are now brought to the attention of the Government for the first time by the concerted action of all the ministers.

I anticipate favorable results therefrom.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 556.]

Mr. Denby to the Foreign Office.

[To be sent before the 26th of January in the form of an official "white" note.]

YOUR HIGHNESS AND YOUR EXCELLENCIES:

In the month of July, 1886, the lekin authorities at Taiwan Fu claimed that foreign merchants established there should pay lekin on native produce, their property, forwarded from Taiwan Fu to Auping for shipment at the latter place.

In order to avoid a complete stoppage of trade and the reclamations for damages which would not have failed to result from it, Her British Majesty's consul at Taiwan Fu made an arrangement with the local authorities according to which foreign exporters were to be allowed to forward their goods pending the decision to be arrived at at Peking, on depositing with the Chinese authorities a guaranty for the amount of lekin claimed.

To the representation of some of the foreign legations to the Yamên of the illegality of the pretension put forward by the lekin authorities at Taiwan Fu, your highness and your excellencies replied that instructions had been given to the inspector-general of foreign maritime customs to send one of his officials to Formosa to inquire into the matter and to make the necessary arrangements on the spot.

Since then nearly eighteen months have elapsed without anything having been done by the Tsung-li Yamên or by the inspector-general, while, on the other hand, the lekin authorities have not only not modified their pretensions, but have lately even claimed the payment of the guaranty notes given by the foreign exporters.

There can be no doubt of the illegality of the action of the lekin authorities. Native produce, the bona fide property of foreigners, has, on exportation, to pay no other duty than the export duty, or, if it is shipped to a Chinese port, coast-trade duty; the foreign exporter has to do only with the custom-houses established at the places or ports open to foreign commerce, and the lekin authorities have no right to interfere with his business. To claim lekin on produce between Taiwan Fu and Auping would

be equivalent to doing so between Tientsin and Taku, Shanghai and Wusung, Canton and Whampoa, and between all the other places where the market open under treaty is not at the same time the place of shipment.

The rules under which a foreigner has to pay taxes on native produce are simple and clear: If he purchases in the interior he has either to pay the transit duty, or, if he does not take out a transit pass, all inland taxes legally claimed from a native merchant.

If he purchases it in an open place, he has neither to pay any tax whatever, nor is it his business to convince himself that the native merchant from whom he buys has paid the inland taxes, it being the duty of the Chinese authorities and not of the foreign merchants to protect the Chinese exchequer against defraudations. On exportation the foreign merchant has to pay only those duties paid by treaty and none other.

The action of the Taiwan Fu lekin authorities being clearly in contravention of the above rules, which have been in force ever since the conclusion of the treaties, I have the honor (again) to request your highness and your excellencies to forward without delay the necessary instructions to the lekin authorities at Taiwan Fu to abstain from their illegal proceedings and to act in future according to the rules laid down in the treaties as enunciated above.

I avail myself, etc.,

CHARLES DENBY.

No. 171.

Mr. Bayard to Mr. Denby.

No. 285.] DEPARTMENT OF STATE,
Washington, February 9, 1888.

SIR: I have received and read with attention your dispatch No. 521 of December 9 last, transmitting and commenting on a publication in a Chinese newspaper purporting to be a recent memorial addressed by the King of Corea to the Emperor of China, praying for authority to send envoys to represent the Kingdom near the Government of the United States and also at the courts of the principal European powers.

My instruction No. 281 of the 26th ultimo, communicating for your information copy of an instruction and its inclosures, sent under the same date to Mr. Dinsmore, at Seoul will have informed you of the reception of the Corean minister, Pak Chung Yang, at this capital, on a footing of diplomatic equality with the representatives of other States which maintain treaty relations with the United States.

Your comments upon this singular memorial attracted my consideration. I quite agree with you that the agitation of the subject of Corea's complete independence of China, by representatives of the United States is neither desirable nor beneficial; nor do I think it incumbent on this Department now to pursue any question heretofore raised as to the relations of Corea to China, unless called upon to do so by an actual case requiring affirmative action.

The claim of China has never been definitely stated. Upon the negotiation of our treaty with Corea, the King wrote a letter to the President which was communicated to the Secretary of State by Admiral Shufeldt, and which was before the Senate when the treaty was approved. According to the translation sent hither by Admiral Shufeldt in his report to the Secretary of State, dated May 29, 1882, the letter reads as follows:

The Chose Hsien country (Corea) is a dependency of China, but the management of her governmental affairs, home and foreign, has always been vested in the sovereign.

Now, as the Governments of the United States and Corea are about to enter into treaty relations, the intercourse between the two nations shall be carried on in every

respect on terms of equality and courtesy, and the King of Corea clearly asserts that all the articles of the treaty shall be acknowledged and carried into effect according to the laws of independent States.

In the matter of Corea being a dependency of China (in) any question that may arise between them in consequence of such dependency the United States shall in no way interfere.

The King has accordingly deputed commissioners for the purpose of negotiating the treaty, and now, as in duty bound, addresses this communication for the information of the President of the United States.

(The date of this letter corresponds to May 15, 1882, while the treaty was signed May 22.)

According to the translation communicated to the Department by Mr. Holcombe in his No. 133 of June 26, 1882, the letter reads as follows:

Cho-sen has been from ancient times a state tributary to China, yet hitherto full sovereignty has been exercised by the Kings of Cho-sen in all matters of internal administration and foreign relations. Cho-sen and the United States, in establishing now by mutual consent a treaty, are dealing with each other upon a basis of equality. The King of Cho-sen distinctly pledges his own sovereign powers for the complete enforcement in good faith of all the stipulations of the treaty in accordance with international law.

As regards the various duties which devolve upon Cho-sen as a tributary state to China, with these the United States has no concern whatever.

Having appointed envoys to negotiate a treaty it appears to be my duty, in addition thereto, to make this preliminary declaration.

This letter, which has been accepted by China as authoritative, contains the only official statement ever received by this Government as to Corea's relation to China.

In the report above referred to Admiral Shufeldt said that the treaty between the United States and Corea—

Was agreed to without any political consideration whatever, and only upon the promise, which I had previously made and reported, that I would forward to the President of the United States a letter from the King of Cho-sen, stating the political relations existing between Cho-sen and China.

The position of the United States is that of simply requiring the observance of treaty obligations, and it is not thought expedient to pursue any controversy as to the relations of China and Corea, further than may be necessary to enable us to secure such observance. The interest of this Government is not political. It seeks merely the protection of American citizens and their commerce, and is not disposed to go beyond the point where such protection can be obtained.

I am, etc.,

T. F. BAYARD.

No. 172.

Mr. Denby to Mr. Bayard.

No. 567.] LEGATION OF THE UNITED STATES,
Peking, February 9, 1888. (Received April 7.)

SIR: As matter of convenient reference, I inclose herewith a table of statistics of Protestant missions in China, December, 1887.

The number of foreign missionaries is now 1,040, which is 121 more than in December, 1886, 43 of these being men and 74 unmarried women. This increase is chiefly due to the China inland mission,

Native ordained ministers number 175, an increase of 35; unordained native helpers number 1,316, an increase of 30; communicants number 32,260, an increase of 4,260, or about 14 per cent.

The total of contributions is $38,236.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 567.]

Statistics of Protestant missions in China, December, 1887.

Name of society.	Date of mission.	Foreign missionaries.				Native ordained ministers.	Unordained native helpers.	Communicants.	Pupils in schools.	Contributions by native churches.
		Men.	Wives.	Single women.	Total.					
London Missionary Society	1807	28	21	11	70	8	69	3,595	2,186	$17,200.00
A. B. C. F. M.	1830	29	25	12	66	21	86	1,545	559	180.00
American Baptist, North	1834	5	5	2	12	4	16	371	145	279.26
American Protestant Episcopal	1835	10	6	1	17	22	21	362	900	410.76
American Presbyterian, North	1838	45	34	19	98	19	176	3,786	1,932	2,448.88
American Reformed (Dutch)	1842	5	5	3	13	5	19	820	124	2,076.29
British and Foreign Bible Society	1843	13	7	.....	20	.....	114	.....	.....	.....
Church Missionary Society	1844	26	19	8	53	12	177	2,507	2,152	3,106.80
English Baptists	1845	19	15	.....	34	1	8	1,062	160	450.00
Methodist Episcopal, North	1847	30	27	14	71	43	87	3,349	1,084	3,473.57
Seventh-day Baptist	1847	1	1	1	3	.....	7	24	36	.....
American Baptist, South	1847	13	10	9	32	7	24	1,641	232	1,175.61
Basel Mission	1847	20	15	.....	35	3	66	1,808	598	654.00
English Presbyterian	1847	21	15	7	43	5	84	3,553	370	3,920.00
Rhenish Mission	1847	3	3	.....	6	.....	6	60	200	.....
Methodist Episcopal, South	1848	8	7	14	29	3	7	222	725	210.34
Berlin Foundling Hospital	1850	1	1	4	6	.....	.....	80	.....	.....
Wesleyan Missionary Society	1852	19	8	5	32	5	31	935	520	600.00
Women's Union Mission	1859	.....	.....	5	5	.....	6	17	105	8.00
Methodist, New Connection	1860	7	4	.....	11	.....	34	1,218	162	100.25
Society Promotion Female Education	1864	.....	.....	5	5	.....	.....	.....	273	.....
United Presbyterian, Scotch	1865	6	5	1	12	.....	13	634	50	250.00
China Inland Mission	1865	123	52	90	265	12	73	1,932	173	401.34
National Bible Society of Scotland	1868	4	2	.....	6	.....	42	.....	.....	.....
United Methodist Free Church	1868	3	3	.....	6	.....	11	306	77	240.00
American Presbyterian, South	1868	10	6	4	20	.....	4	83	260	72.00
Irish Presbyterian	1869	3	3	.....	6	.....	.....	25	5	.....
Canadian Presbyterian	1871	2	2	.....	4	2	46	1,765	527	975.60
Society Propagation of the Gospel	1874	4	2	2	8	.....	.....	.....	.....	.....
American Bible Society	1876	8	4	.....	12	.....	60	.....	.....	.....
Established Church of Scotland	1878	3	3	.....	6	.....	3	30	80	.....
Berlin Missions	1882	4	4	1	9	3	21	500	70	.....
General Protestant Evangelical Society	1884	1	.....	.....	1	.....	.....	.....	.....	.....
Bible Christians	1885	4	1	.....	5	.....	.....	.....	.....	.....
Foreign Christian Missionary Society	1886	5	2	.....	7	.....	1	.....	32	.....
Book and Tract Society	1886	1	1	.....	2	.....	.....	.....	.....	.....
Society of Friends	1886	1	1	.....	2	.....	.....	.....	.....	.....
Independent Workers	.....	4	1	3	8	.....	.....	30	42	4.00
Total December, 1887	.....	489	320	231	1,040	175	1,316	32,260	13,777	38,236.70
Increase over 1886	.....	4	4	74	121	35	20	4,260	198	19,862.14

With compliments of the compiler.

S. H. GULICK,
Editor Chinese Recorder.

No. 173.

Mr. Denby to Mr. Bayard.

No. 569.] LEGATION OF THE UNITED STATES,
Peking, February 13, 1888. (Received April 7.)

SIR: I have the honor to inclose herewith a Chinese proclamation on rendition of fugitives from justice, which was issued by the four high provincial authorities of the province of Kuang Tung.

The occasion of its issuance was probably the arrest, at the Chinese town near Hong-Kong, of a member of the Triad Society a year and a half ago. He started in a steam-launch to go to British Kowloon, which is opposite to Hong-Kong. The launch changed its destination and went to the Chinese town. The man jumped overboard, but was arrested and executed.

The examination into the case did not disclose any guilty complicity of the managers of the steam-launch, and the matter was dropped. The seizure of the man alongside the wharf did not constitute an infringement of international law. The proclamation is issued in order to guard against similar occurrences in the future.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 569.]

A CHINESE PROCLAMATION ON RENDITION.

[The rendition proclamation of four high imperial officers of Kwang Tung: Ko, provincial treasurer; Wong, chief criminal judge; Ging, salt commissioner; Tin, grain intendant.]

The proclamation is said to be for general information. It is issued in accordance with instructions received from the Tsung-li Yamên by Chang, viceroy of the Two Kwang, to the following effect:

"The treaties between China and foreign nations contain clear provision for the rendition of law-breakers.

"For a considerable period no differences or difficulties arose.

"But in the instance of some criminals of great notoriety special methods were resorted to. Fearing that if reports were made and their rendition applied for, the matter would leak out and certain criminals known to be in hiding under foreign jurisdiction would contrive to make good their escape, attempts were made to effect arrests without first reporting to the (foreign) authorities concerned.

"Such practices are contrary to law, and in the result lead to much trouble.

"Foreseeing this, instructions are now forwarded that all subordinate officials under the viceroy's control may be enjoined to act in accordance with the treaty provisions. When a Chinese criminal flees for hiding to a foreign country the matter must be reported to the officials of that country, and application made for the rendition of the culprit. No secret devices may be resorted to with a view to make an arrest."

The viceroy is further directed by the Peking authorities to issue a proclamation conveying to his subordinate officers the instructions of the Tsung-li Yamên. This is done accordingly by the high provincial authorities (above named) in the viceroy's name.

The proclamation proper is addressed to all whom it may concern, civil and military:

"From this time onward none may engage in secret attempts to capture (Chinese) criminals who are under foreign protection."

Positive directions are added:

"First report on the matter to your own officials that they may make representations to the viceroy. He will make applications that criminals in hiding abroad be delivered up for proper punishment. Use no underhand devices to arrest criminals, lest trouble be thereby caused."

Issued in Canton, 4th January, 1888.

No. 174.

Mr. Denby to Mr. Bayard.

No. 572.] LEGATION OF THE UNITED STATES,
Peking, February 15, 1888. (Received April 21.)

SIR: I have the honor to inclose herewith a translation of the reply of the Yamên to my dispatch (No. 1) of January 25, relating to the levying of lekin on goods bought at a treaty port in Formosa for export.

It will be seen that the Yamên defends the lekin chiefly on the ground that the foreign merchants have generally failed to take out transit passes, and as they do not thus pay half duty should pay lekin.

The foreign ministers insist that the provincial authorities should collect lekin in the interior; that, if they fail to do so, it is their fault; and that there is no warrant for collecting lekin on goods owned by foreigners at a treaty port.

There will be further correspondence on this subject, which will be reported to you.

I have, etc.

CHARLES DENBY.

[Inclosure in No. 572.]

The foreign office to Mr. Denby.

No. 2.] PEKING, *February* 11, 1888.

YOUR EXCELLENCY: Upon the 25th of January, 1887, the prince and ministers had the honor to receive a communication from your excellency in the matter of the levy of lekin in Formosa (from foreign merchants) on native produce, which you regarded as a violation of treaty stipulations, etc.

It appears that lekin has been levied on tea in northern Formosa for a long time, and in southern Formosa there has been in force what is termed "chuan huo lekin," or lekin on ships and goods. The rules governing the two systems are not exactly the same. Since Formosa was changed into a provincial government the necessary funds (adequate to meet the expenses) have been very large. The governor, therefore, decided to do away with the name "chuan huo lekin" and adopt the *modus operandi* existing in other provinces and impose lekin on all articles of merchandise, a system universally carried out there. Formosa is somewhat different as compared with other provinces. In the other provinces the places where native products are produced are a very long distance from the sea-ports, and there are also a great many lekin stations. Hence native goods *in transitu* to a treaty port have to pay the lekin duties exacted en route. If foreign merchants procure transit passes and purchase native produce in the interior, on the arrival of the goods at the barrier nearest the port the transit dues due thereon shall be paid.

The trade in the interior of Formosa has not, as yet, been fully opened. In South Formosa the principal articles are sugar and sugar-cane. These are produced in close proximity to the capital city, and it is absolutely necessary that lekin should be collected near there. Further, there is only one route where lekin is levied, and the tax is much lighter than the impost of a similar character in other provinces. The object of levying this tax is to provide revenue, still at the same time to regard the interest of the mercantile classes. The lekin barrier established is at a place called Si Lei, 5 li (little over 1½ English miles) from An Ping. The barrier at An Ping is solely for the examination of goods; the system in force in Nantai and Amoy, in the province of Fukien, has been followed—there is no difference.

If foreign merchants purchase produce in Formosa and under the regulations apply for transit passes they pay half duty; otherwise lekin is levied on the goods. This rule is certainly not in the least at variance with the provisions of treaty.

The Yamên, some time ago, sent a note of inquiry to the governor of Formosa and that officer made a report setting forth in a clear and concise manner every detail (regarding this business). The governor further stated that during the sugar season this year no transit passes have been applied for by foreign merchants who have exported sugar and, under the regulations, to pay lekin can not in the least be a matter of inconvenience to them.

A necessary communication, etc.

No. 175.

Mr. Denby to Mr. Bayard.

No. 574.] LEGATION OF THE UNITED STATES, *Peking, February* 20, 1888. (Received April 21.)

SIR: It has been the practice here since China entered into diplomatic relations with the foreign powers for the prince and ministers of the Yamên to send their cards to the foreign ministers on our New Year's Day, but they do not send cards to the secretaries, attachés, or interpreters. Soon after our New Year's Day the prince, ministers, and heads of the boards, and other high officials call on a designated day. The Tsungpans or chief secretaries of the Yamên, seven in all, in like manner on our New Year's Day send their cards to the secretaries and other members of the legations.

On the Chinese New Year, which occurred this year on Sunday, February 12, of our calendar, the foreign ministers sent their cards to the prince and ministers of the Yamên, and the other members of the legations sent their cards to the Tsungpans.

Mr. von Brandt, the dean of the diplomatic corps, has always insisted that etiquette demanded that the prince and ministers should, on this occasion, send their cards to the secretaries and other members of the legation. He states that this is the practice at European courts.

The question being brought before the ministers, they authorized the dean to propose to the prince and ministers that the Tsungpans should call on the foreign ministers, or leave their cards with that of the prince, the foreign ministers would then, on the Chinese New Year, send their cards to the Tsungpans, and the prince and ministers of the Yamên should on our New Year, in 1889, send their cards to the various members of the legation.

A correspondence ensued between the dean and his interpreter on the one side and the ministers and the Tsungpans on the other, which by degrees became somewhat strained and offensive. The result was that the prince and ministers declined to agree to send their cards to the secretaries, attachés, and interpreters.

The foreign ministers then determined to send their cards, as usual, on the Chinese New Year to the prince and ministers and afterwards to send cards to the other officials who had called on them, but not to call in person as had always been customary.

Of course this decision was much regretted as it tended to offend the Chinese officials, but it was argued that the minister could not separate himself from his associates in the legation, and that he ought not to compel the members of the legation to call on the prince and ministers if their visits were not to be recognized in any manner.

After the Yamên received the communication of the dean the Marquis Tsêng was sent to confer with him orally. The result of the interview was that the marquis proposed that the prince and ministers should agree to send their cards on their next New Year (1889) to the secretaries of legation in addition to sending them to the ministers, and that all correspondence on the subject be withdrawn. The dean reported this proposal to the foreign ministers, who, in order to avoid an unpleasant breach with the Tsungli Yamên and the other officials, consented that they would make their annual visit accompanied by the secretaries. But the ministers determined that they would not ask their interpreters to accompany them, and that the Yamên should be notified of this determination, and that they would be expected to furnish interpreters.

It was thought by some of the ministers that the prince and ministers, on this announcement being made, would agree to send cards to the interpreters and the whole question would be settled, but the Yamên replied simply that they had made arrangements for their own interpreters to serve on the occasion of our visit.

The action of the foreign ministers above set out met with my full approval.

Every step in diplomatic intercourse with China which tends to break down reserve is commendable. There should be no retrogression in the etiquette of official relations until the foreign representatives are granted audience with the Emperor, and exact reciprocal treatment with that accorded to Chinese representatives in western countries. The difference is now material and it has its effect on the people in keeping alive hostility to foreigners. This widely diffused hostility would disappear or sensibly diminish if the officials of the Government would adopt a line of conduct displaying friendly and honorable recognition of the diplomatic and consular agents.

It is not proposed by the ministers to demand social intercourse, but it is determined to compel, if possible, the Yamên to accord to them and their subordinates officially the observance of the etiquette which prevails in Western countries.

Although, therefore, the question of proper treatment of the interpreters and attachés is for the present waived, its discussion has been postponed only, and it will be renewed from time to time until it is settled correctly.

It was unpleasant to the ministers to seem to waive a point of etiquette touching the interpreters. These gentlemen are as respectable members of the legation and certainly as useful as any other members. They are habitually engaged in important intercourse with the members of the Yamên, and the most difficult work of the legation is done by them.

They are, in Peking, scholarly and cultivated men and are, on all accounts, entitled to the highest consideration. In the Russian system, particularly, there are no divisions of the foreign service. The dragomans or "gens de langue" have equal rank as a class with the other branches of the service. They are, in fact, usually designated as "Chinese secretaries," and should be so designated in our service. In the French service there are the three distinct divisions of diplomatic, consular, and interpretorial. The same rule prevails in the services of other nations and of our own.

But it is distinctly held by the ministers that the differences in the various services create no distinction here, and that the interpreters are all on an equality among themselves and are all entitled to the same treatment from the Chinese officials which is accorded to the secretaries of legation.

Taking the actual condition of his service into account it was difficult for the Russian minister to consent to seem to accord, by agreeing to call on the Yamên with his secretaries alone, precedence to his secretaries over his interpreters. His chief interpreter, in fact, ranks his secretary. For the sake, however, of presenting a united front to the Chinese Government, he waived the inconsistency and agreed to call with the other ministers, reserving the question for future settlement.

In my own case I exceedingly regretted that the interpreter of this legation, as it was decided, would not accompany me on the occasion of my visit to the Yamên and the other high officials; but I was not prepared to take, on that account alone, the responsibility of declining to

comply with the usage of calling, in view of our existing relations with China and the importance of preserving the best possible feeling between the two countries at this juncture of affairs at home and here.

I would be pleased to receive from you some account of your own practice touching the reception by the President of secretaries, attachés, and interpreters, the interchange of official calls between yourself and members of the various legations, and such other matters connected with the subject as may throw light upon official intercourse here.

I am, etc.,

CHARLES DENBY.

No. 176.

Mr. Denby to Mr. Bayard.

No. 577.] LEGATION OF THE UNITED STATES,
Peking, February 21, 1888. (Received April 21, 1888.)

SIR: I have the honor to inclose herewith a translation of the reply of the Yamên to my communication on the camphor monopoly in Formosa, which was forwarded to you in my dispatch No. 555, of January 26 last.

It will be seen that this communication is evasive and irresponsive. It is stated that camphor may still be bought by foreign merchants in places near the sea-ports "if procurable there," and that "official control" of the trade is taken only in the disturbed districts.

In fact the objectionable proclamation made the trade in all the island a Government monopoly. I do not know that any American is interested in the camphor trade in Formosa, but the subject is important as being on the part of the ministers an effort to force the Imperial Government to compel the viceroys to comply with treaty stipulations. There will be further correspondence on the subject with the Yamên.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 577.]

The Foreign Office to Mr. Denby.

PEKING, *February* 16, 1888.

YOUR EXCELLENCY: Upon the 25th January ultimo the prince and ministers had the honor to receive a communication from your excellency in the matter of the camphor trade in Formosa, in which you requested that the rules agreed upon in the eighth year of Tung Chih (1869) governing the trade in this article still be continued in force, and that it shall not be carried on as a Government monopoly. In regard to this case the Yamên has sent repeated communications to the governor of Formosa in which the question at issue has been discussed. During the summer of 1887 the Yamên received a report from the governor of Formosa as follows:

"Shui Ti Liao is over 300 li from the capital of Formosa, and conterminous with the borders of the districts inhabited by the aborigines. The passes issued by the customs authorities clearly stipulate that foreign merchants in purchasing camphor must not proceed to places in close proximity to the country occupied by the aborigines and their trade, to the end that trouble may be avoided. In the present case of the German merchant Tui Hsing (Lauts and Haesloop) proceeding to the said place to trade, this was a violation of the stipulations of treaty set forth in the customs passes. In a word, Formosa camphor is not produced in the outer mountainous region inhabited by the Chinese. Since the tenth year of Kuang-hsü, no exportation of camphor has been made, and as evidence of this fact there is the customs return

which can be examined. The provincial monopoly in camphor is in that produced in the inner mountainous region inhabited by the aborigines which has been brought under subjection by the governor.

"The provincial government has, at its own expense, established military stations there as a means of protecting this business. It will thus be seen that the present condition of affairs is not the same as formerly. Foreign merchants are still permitted to purchase camphor, if procurable, near the sea-ports, the same as the German firm Tui Hsing who have also made purchase at Lu Chiang, a place settled and free from disturbances. But to places conterminous to the region settled by the aborigines foreign merchants should not proceed, in due observance of the conditions prescribed in the customs passes.

"As to Shui Ti Liao, this is a place where the aborigines appear and disappear. A feud exists between the Chinese and aborigines there; they kill each other, and there are repeated cases of murder. There can be no harm by the foreign ministers at Peking instructing their respective consular officers, in conjunction with the local authorities, to proceed to said place for the purpose of ascertaining whether or not it is conterminous to the boundaries of the aboriginal region. Whether or not Chinese as well as foreign merchants formerly bought camphor there it is not convenient to accept the one-sided statement of foreign merchants, and these alone as authentic. The present system of conducting the camphor trade in Formosa is not in violation of the treaty and agreement."

The Yamên would observe that from the above report at places near the sea-ports camphor, if procurable there, can still be purchased by foreign merchants without regard to whether it is official or not, but in the inner mountainous regions, settled by aborigines recently brought under subjection by the governor of Formosa, as the trade has been opened at the expense of the Government, makes it another matter, and the action taken by the Formosan authorities can not be regarded as a violation of treaty or of the agreement in their placing the trade in question under official control.

Disturbances easily arise in the districts settled by the aborigines, and in not wishing foreigners to proceed far into the interior is purely from a desire of complete friendliness. The action taken in the premises is in accordance with the treaties.

The prince and ministers believe that your excellency will, with a spirit of impartiality, look into the matter and regard the statements made in this communication as being in order.

No. 177.

Mr. Denby to Mr. Bayard.

No. 578.] LEGATION OF THE UNITED STATES,
Peking, February 24, 1888. (Received April 21.)

SIR: As some discussion has lately taken place in the United States touching slavery in China I submit the following observations thereon:

The origin of slavery in China is given in an ancient writing, the Fong-fou-ting, in substance as follows: In antiquity there were no slaves, neither male nor female. The first slaves were felons who lost their liberty by reason of their crimes. But they were slaves simply in the sense that their labor belonged to the public. Prisoners and captives taken in war introduced a second species of slavery. Finally, in the troubles and misfortunes of the third dynasty, the poor who were without resources gave themselves with their families to the great and rich who were willing to support them. These last two forms of slavery caused the condition to be regarded rather as a misfortune than a shame.

In the memoirs prepared by the early Catholic missionaries, and printed in 1777, there are treatises on slavery. Marriage of slaves was encouraged for the sake of the increase.

Slaves were usually treated with kindness, and were supported by their masters in their old age. Manumission was common, and instances are recorded wherein slaves refused the tender of their freedom. The

missionaries wax eloquent in defense of slavery, and regard the institution as developing "a mode of thought and sentiment worthy of the authors of Telemachus and of the Friend of Man." The traditional Chinese patriarch's idea of the family, they say, modifies and tempers slavery so that masters and slaves become one great family.

Slaves were never numerous in China, and of late years they have decreased in numbers. All China knows, says one writer, that an edict of the Emperor was necessary to oblige his Tartars on duty to have slaves for domestic servants, and that this edict is hardly observed.

All modern writers agree that slavery still exists. Every native may purchase slaves, and the condition is hereditary. Freedom is forfeited by crimes or mortgaged for debt. Slaves are so few that they attract little attention. At Peking girls bring higher prices than boys, varying, according to age up to eighteen years, from 30 to 300 taels. Needy parents sell their children, and orphans are sold in times of famine for a few taels in cash.

Williams ascribes the paucity of slaves to the existence of the competitive examination system. The widely diffused education consequent on the preparation for the examinations by 2,000,000 of people every year has saved China, he thinks, from the feudal system, the villeinage consequent thereon from the introduction of castes, and the considerable entension of slavery. To deny that competitive examinations have had this beneficent tendency would be to contradict the experienee of humanity touching the benefactions of education. But the same result in Western countries is much more advantageously obtained by the common schools, which more than all else are the distinguishing glory of modern times.

It is probable that the patriarchal form of the Chinese Government, the primitive idea among the Chinese as among the Jews, that all the people constituted a great family, and the doctrine of the worship of ancestors, have more than the competitive examinations restricted the spread of slavery.

That slavery is tolerated by Chinese law will sufficiently appear from the statutes which, although fallen somewhat in disuse, still exist. I quote a few of these laws.

By section 115 of the penal code a master soliciting and obtaining in marriage for his slave the daughter of a freeman suffers eighty blows. Accessories are punished in like manner. A slave soliciting and obtaining a daughter of a freeman in marriage is punished in like manner. If he receives the woman into his family he suffers one hundred blows.

A person representing falsely a slave to be free and thereby procuring such a slave a free husband suffers ninety blows. The marriages are in all such cases null and void.

Under section 313 a slave striking a freeman shall be punished one degree more severely than is by law provided in similar cases between equals.

Entire disability so caused is punished by strangulation, and in event of death from the blow, the slave is beheaded. A freeman striking a slave is punished one degree less than in ordinary cases, but he is strangled if death follows the blow.

Slaves striking or killing one another are punished as equals are.

Under the head of "slaves striking their masters," section 314, the punishments are very severe. For striking the master the punishment is beheading; for killing him, death by the slow process; for accidental killing, death by strangling; for accidental wounding, one hundred

blows and banishment. For similar injuries to their master's relatives the punishments are reduced one degree.

If the master beats the slave to death for having committed a crime he suffers one hundred blows.

A gentleman living here who has devoted his life outside of all missionary societies and alone to charity, Mr. J. Fisher Crossette, gives me some information as to slavery. He says there is a system of servitude carried on in the coal mines west of Peking. Men are involved in gambling debts and then taken to a coal mine. Their lives and labor are mortgaged for the existing debt and for others subsequently created, and they remain slaves.

The Chinese have a great horror of this condition, and the law has done much to put a stop to this abuse, and in certain districts has succeeded. Mr. Crossette personally knows that large numbers of girls were carried off and sold into slavery during times of famine in the province of Shantung. A Chinese convert at Tsi-nan-fu sold his little daughter for $16 to serve as a maid of all work in a rich man's family. Boys were not marketable. Another Christian sold his wife for $2.50 to pay a debt of that amount.

Mr. Crossette says that there exists in some parts of China a peasant servitude, such as formerly existed in Russia.

I have, etc.,

CHARLES DENBY.

No. 178.

Mr. Bayard to Mr. Denby.

No. 292.] DEPARTMENT OF STATE,
Washington, March 6, 1888.

SIR: I have received your No. 545 of January 12, 1888. relative to the bonded warehouse system in China, and the application of the Shanghai Chamber of Commerce to the dean of the diplomatic corps, invoking its assistance to prevent the granting of a monopoly of storage of goods in bond to the China Merchants Steamship Company.

It seems prudent to watch the course of the experiment and, if successful, to press for its extension, as promised by the reply of the diplomatic body through its dean. But the Yamên should be given to understand that the United States do not thus waive objections to any form of monopoly which may restrict foreign commerce at the open ports.

I am, etc.,

T. F. BAYARD.

No. 179.

Mr. Denby to Mr. Bayard.

No. 585.] LEGATION OF THE UNITED STATES,
Peking, March 7, 1888. (Received April 21, 1888.)

SIR: I have the honor to inform the Department that the attention of this legation has been brought by the foreign office to the practice of smuggling fire-arms, which, under the treaty, are contraband of war, by sailors in the employ of foreign steamers plying to the port of New-

Chwang. This illicit traffic seems to have been carried on for a long time, and it is said that the arms are sold to a class of outlaws and brigands who infest the eastern Manchurian provinces. The Government, naturally, is anxious to put a stop to it, and even suggests that when foreign sailors are detected in this illegal business they should be deported by their respective consuls to their native lands, and forbidden to again engage themselves as sailors on the China coast. I have informed the Yamên that I will co-operate with the Chinese authorities in trying to stop this illicit business and have promised to instruct our consuls to use every legal means to prevent citizens of the United States from violating the treaty in this respect.

I do not apprehend, however, that there will ever be any complaints of this nature against our citizens, as there are very few engaged as sailors on this coast.

I have, etc.,

CHARLES DENBY.

No. 180.

Mr. Bayard to Mr. Denby.

No. 293.] DEPARTMENT OF STATE,
Washington, March 7, 1889.

SIR: I have received your dispatches (Nos. 529 and 533) of the 20th and 28th of December, respectively, in relation to the missionaries' troubles in Chi Nan Fu, and in China in general.

The views expressed by you in relation to this subject meet with the approval of the Department. It can not be contended that the treaties grant to citizens of the United States an unlimited right to buy or lease land in the interior of China, and it is therefore proper for the legation to inform those who apply to it for information of that fact. On the other hand if, as you say, the missionaries, with the consent of the local authorities, effect a lodgment, they should be protected. When China was opened by treaties with foreign powers to the entrance and residence of foreigners, it was inevitable that the restricted limits of residence and business prescribed in those treaties should be extended, and as this has gradually been done, with the consent of the local authorities, it may be implied that those authorities have assumed the duty of giving proper protection.

I am, etc.,

T. F. BAYARD.

No. 181.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 586.] LEGATION OF THE UNITED STATES,
Peking, March 10, 1888. (Received May 5.)

SIR: I have the honor to inclose herewith a printed translation of the joint memorial of the Viceroy of the two Kuangs and the governor of Canton, praying the prohibition of the importation of kerosene oil.

It will be noticed that the Viceroy openly avows that he put an excessive lekin on kerosene in order to diminish its importation.

Malice against the United States plainly appears in this production. The injuries done by kerosene are said to be greater than those done by opium. Our treaty of 1881 is invoked, and a parallel instituted to show that kerosene can be excluded.

The ignorance displayed in this article is only equaled by its evident hostility to foreigners. The Viceroy seems to think that a treaty with the United States would be all sufficient to exclude coal-oil. If he had pursued a little further his opium analogy, he would have seen that, although our treaty prohibits our people from engaging in the opium business, the business in its magnitude is not at all affected, it is simply done by the citizens of other countries. So it will be with kerosene.

In point of fact citizens of the United States are slightly engaged in the import of kerosene. At Tientsin the trade is in Chinese hands exclusively. At Shanghai very little, comparatively, is handled by Americans. The China and Japan Trading Company is the only American house engaged in importing kerosene to any extent. Germans and Englishmen and perhaps others handle kerosene. It might be agreeable for them that the business was prohibited to Americans, but China would be injured rather than benefited by the prohibition.

Kerosene comes also from Batoum.

My present impression is that I will not bring this matter to the attention of the Yamên but will await their action. I do not anticipate that any notice will be taken of this stupid memorial.

I shall discuss this subject and some others with the Viceroy in Canton this spring.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 586.]

KEROSENE OIL

[Joint memorial by the viceroy of the Two Kuang and the governor of Canton setting forth the fatal hurtfulness of kerosene oil, and praying that its importation may be prohibited.]

We respectfully submit a report made to us by the Tinghai magistrate, Chang Wên-tsung. On the 18th of the 9th moon, a kerosene lamp, bursting in an upstairs room in the Yang-shing paper-shop, on the Yang-ho-kuang street, Swatow, the conflagration spread to the neighboring houses, and although the local official deputy magistrate, Shih Kan, was promptly on the spot, with the soldiers under his command, they were unable to put it out until the next day, owing to the high wind prevailing at the time, and the fact that kerosene was stored in all the shops in the neighborhood; over four hundred families, great and small, being burnt out.

We also submit a similar report by the Taotai of the Chaochow, Kiatong, and Hinchow intendancy of Tê-tai.

We further submit a report from General Tao-ting Shêng, commanding at Yangcheong—the Bogue—that on the night of the first day of the 10th moon, the river steamer *Wahyeung* was burnt to the water's edge off Shachiao, outside the Bogue, by the explosion of a kerosene lamp in the passenger's saloon, and notwithstanding the efforts of the garrison of the forts and the sailors of the fleet to save them, by which some seventy or eighty lives were saved, the rest of the passengers and crew, numbering some seven or eight hundred persons, were either burned or drowned.

On receipt of telegraphic news of this disaster the Shan-kou office was directed at once to send an officer down to the spot to see what was to be done and to collect the corpses and see to their proper burial, the benevolent society being instructed to provide coffins for their reception.

The fire on this occasion was so rapid and so fierce that nothing could be done to stop it, and not only was the vessel burnt, but over seven hundred lives were sacrificed at the same time. Language is insufficient to describe the horror of the scene; disfigured bodies floating on the river and cumbering the bank.

On inquiring into the subject, we find that kerosene is chiefly imported from America, and that in consequence of its cheapness it has come into general consumption. It is highly inflammable, and unless the greatest care is taken destructive fires constantly result from its use. It appears further that in a dry climate, like that of Canton, the danger of fire is very great, and that last winter scarcely a day passed without one, nine-tenths of the number being traceable to kerosene, notably the great fire in November last, outside the south gate in which over 1,000 families were burned out and over $10,000,000 worth of property was consumed.

We must attribute, therefore, the daily increasing frequency of these disasters to the increasing consumption of kerosene, since the introduction of which incalculable injury has been done to Chinese life and property in this province alone, to say nothing of the other coast and riverine provinces.

It may even be said that the injury done to China by kerosene is more grave than that done by opium, for although opium is indeed a poison, its action is slow, whereas with kerosene, which is found everywhere, if it once catches fire it spreads the more you try to put it out; in a moment the neighborhood is in a blaze and life and property are constantly destroyed.

It is also a matter of importance, although in a less degree, that since the development of the kerosene consumption the native industry in pea-nut, colza, and bean oil has day by day declined.

Having this in view we last year instructed the various lekin stations to impose heavy additional duties on kerosene, hoping by increasing its cost to diminish its consumption, which led to the American minister addressing the Tsung-li Yamên, who called on us for a report, which we made confidentially in May last.

We would submit that by the treaties foreign merchants are forbidden to deal in sulphur or saltpetre, as these concern the military organization, or in rice or beans, as these affect the food supply of the people, and that there is precedent therefore for articles prohibiting foreigners trading (even in) Chinese produce, they should not therefore setting forth as they do, that they are friendly States, insist, in order to profit themselves, on harming us and introducing foreign produce shown to be so highly injurious to the welfare of the people.

We would submit, also, that, as by the supplementary treaty with America made in 1881, provision was made to limit Chinese emigration to that country and prevent its increase, as the competition of Chinese labor was found to be objectional; therefore, that, if they can prohibit our going there because Chinese labor is injurious to their interests, we have an equal right to prohibit the importation of kerosene when it is injurious to us. The law that nations have a right to protect their own interests and prevent injury being done their people applies to both countries alike if there be any justice; and when either Government acts on this principle no objection can be raised by the other. We request therefore that the Tsung-li Yamên may be instructed, quoting the precedent of the supplementary treaty, and on the ground of the injury done to this province, to arrange with the American minister for the institution of regulations in the matter and also that secret instructions may be given his excellency, Chang Yen Hoon, the minister at Washington, to make strong representations to the foreign office there on the subject, to the end that in future foreign merchants may not be allowed to import kerosene or that they may only be allowed to do so in limited quantities, or that, as has been done with opium, special tariff rules may be established putting kerosene out of the category of ordinary merchandise and leaving it to China to tax it as it pleases.

If this be done in a few years the import will diminish, calamities will largely decrease, and native trade will greatly benefit.

Having in view the importance of care for interests of the people, and trusting to prevent the recurrence of the calamity of fires, we, Chang Chih Tung, viceroy of Canton, and Wu-Ta-ching, governor of Canton, humbly submit this memorial, praying that Her Majesty the Empress and His Majesty the Emperor may be graciously pleased to cast their sacred glance thereon.

No. 182.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 590.] LEGATION OF THE UNITED STATES,
Peking, March 17, 1888. (Received May 5.)

SIR: From the reign of Yung Cheng, A. D. 1723, down to 1860, it has been customary for the emperors to hold court about five months

in the year at the Yuen Ming Yuen, or summer palace, situated about 8 miles northwest from Peking.

For the inhuman treatment of the Chinese authorities toward the French and English prisoners who were captured by treachery, Lord Elgin and Baron Gros gave orders that this—the favorite summer residence of the reigning family—should be destroyed as an act of retribution. Of these palaces the most gorgeous description has been given. They were surrounded by every variety of hill and dale, woodland and lawn, interspersed with canals, rivulets, and lakes, with numerous temples and pagodas, containing a large portion of the moveable riches and presents of the Emperor of the reigning family. Since their destruction there has been no available resort where the Emperor could spend the summer months.

About two years ago the Empress ordered that the imperial pleasure-grounds, which were in a more or less dilapidated condition, should be extended and put into a thorough state of repair. Work was commenced, palaces built, and accommodations necessary for the court were made at an enormous outlay. By a decree, which appeared a few days since, the Empress and Emperor, with the members of the court, will move to these pleasure-grounds, which are in close proximity to the prohibited city, on the 20th of May, and there remain until the autumn.

I have, etc.,

CHARLES DENBY.

No. 183.

Mr. Denby to Mr. Bayard.

No. 591.] LEGATION OF THE UNITED STATES,
Peking, March 19, 1888. (Received May 5.)

SIR: I have the honor to report that the Tsung-li Yamên has agreed that arrangements will be made to relieve the foreigners from the present unsatisfactory system of "drawbacks" on the Yangtze. The exact changes to be made have not been determined.

I have, etc.,

CHARLES DENBY.

No. 184.

Mr. Denby to Mr. Bayard.

No. 592.] LEGATION OF THE UNITED STATES,
Peking, March 19, 1888. (Received May 5.)

SIR: I have the honor to report that the Tsung-li Yamên desires further time and information before coming to a final determination touching the government camphor monopoly in Formosa. The ministers insist that, until final decision, the rules adopted in 1869 (Prince Kung to Mr. Browne, dispatch 39, March 17, 1869) are to remain in force. This probably is the end of the monopoly.

I have, etc.,

CHARLES DENBY.

No. 185.

Mr. Denby to Mr. Bayard.

No. 593.] LEGATION OF THE UNITED STATES,
Peking, March 19, 1888. (Received May 5.)

SIR: I have the honor to report that the Tsung-li Yamên has agreed to instruct the governor of Formosa to cease the imposition of lekin on native produce, the property of foreigners, within any open port or while in transit from such port to the place of shipment.

I have, etc.,

CHARLES DENBY.

No. 186.

Mr. Denby to Mr. Bayard.

No. 594.] LEGATION OF THE UNITED STATES,
Peking, March 19, 1888. (Received May 5.)

SIR: I have the honor to report that the Tsung-li Yamên has refused to order the removal of the obstructions in Pearl River, near Canton. The foreign ministers do not accept the decision as final.

I have, etc.,

CHARLES DENBY.

No. 187.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 595.] LEGATION OF THE UNITED STATES,
Peking, March 19, 1888. (Received May 5.)

SIR: I have the honor to inclose herewith a copy of a communication sent by me to the treasurer of the Central China Mission. It aims to set out the law of land tenure in China affecting foreigners, a subject of considerable and growing importance.

I have thought that in its actual form of practical questions and answers it would be more satisfactory to you than a more elaborate essay might be.

I desire to call attention to the sixth question and answer. That question involves the right of foreigners to acquire and hold real estate in the interior. I did not think it proper or incumbent on me to discuss this subject at length in a paper addressed to a private citizen.

My views, which are those of the Department as far as I know, are plain and simple.

The treaties *per se* do not confer on foreigners the right to settle in the interior and to acquire property. There can be no dispute on this point, except it be based on the sixth article of the French treaty of October 25, 1860. The twelfth article of the British treaty of June 26, 1858, containing the words "or other places," has received at the hands of Great Britain the construction that it does not mean unlimited right to settle in the interior, but applies only to places near the open ports.

The Chinese text of the French treaty, viz, "It is in addition permitted to French missionaries to rent and purchase land in all the provinces, and to erect buildings thereon at pleasure," has never been adopted under the favored-nation clause by any foreign power, not even by France as an intrinsic part of the treaty.

The words quoted are not in the French text in any shape or form, and the French text is the authoritative version.

But although the power to acquire land in the interior is not found in the treaties, in point of fact it has been, by custom and toleration, permitted to many foreigners to reside permanently in the interior and to acquire land. The missionaries of all nationalities have stations all over China, and are constantly opening new stations.

As an example, take the city of Peking, the actual seat of government of this most exclusive court. The eighth rule attached to the customs tariff in English and Chinese, agreed on in November, 1858, is the following:

RULE VIII.—*Peking not open to trade.*

It is agreed that Article IX of the treaty of Tientsin shall not be interpreted as authorizing British subjects to enter the capital city of Peking for purposes of trade.

Yet, by the tolerance of the Chinese Government, the Hong-Kong and Shanghai Banking Corporation has a branch bank here. There are also two foreign merchants here who do a general business, buying what they please and selling all conceivable articles. One of them has a hotel for foreigners. Curio dealers come here from time to time, and stay as long as they please.

On the religious side of the question, we have the noted example that the Emperor last year, in exchange for the grounds of the old Pei Táng—the Catholic cathedral—gave to the Catholics a large and valuable tract of land in the imperial city, close to the prohibited city, to be used for churches, schools, convents, hospitals, and as the residence of the numerous clergy. The Emperor gave them, also, 400,000 taels, and, by decree, authorized the use of the land for the purposes indicated. In front of the new cathedral, which will be an imposing building, this imperial decree will be chiseled on a marble slab, which will be erected on the back of a huge marble tortoise, the emblem of perpetuity.

It is notorious that elsewhere in China official consent has been given to the acquisition of land and the erection of hospitals, churches, and residences, both by Catholics and Protestants.

Influenced by these considerations, I am now making an effort to secure more land for the Presbyterian mission at Chinanfu, in Shantung.

Leaving the treaties out of consideration, what, then, is a fair conclusion from the actual condition of things in China?

It would seem to be this: The Imperial Government leaves the question of permanent residence to be solved by the local authorities and the people. If the foreigner can procure toleration in any locality, and is suffered without objection to locate therein, he, by degrees, may acquire vested rights, which his own government and the Imperial Government also are bound to secure to him if attacked. If the foreigner is unable by tact and prudence to conciliate the natives so as to secure a permanent residence, he is not strictly entitled to demand either of his own government or the Imperial Government insistence on a claim which has no treaty basis.

It is claimed, however, that the rights granted under the treaties have been enlarged by the usage and tolerance of the Chinese Government, and by special acts, whereby peculiar rights and privileges in certain localities have inured to certain foreigners, and under the favored-nation clause similar rights will be claimed for citizens of the United States.

The Government of the United States does not undertake to control its citizens in their selection of residences at home or abroad. They have the right to go where they please. They will, while traveling in foreign countries, be protected by the Government.

Should citizens of the United States locate in the interior of China, the Government of the United States could not, as matter of treaty stipulation, insist that they have the right to acquire real property, except in localities where this right has been accorded to citizens or subjects of other foreign powers. In this last case, under the favored-nation clause, exact equality should be insisted upon.

Should citizens of the United States, with the consent of the authorities and having complied with the terms of article 12 of the treaty of 1858, acquire real property, they will be protected in its enjoyment, and wrongs or injuries done them will be redressed.

When citizens of the United States are permanently located in the interior, with the consent and acquiescence of the local authorities and the body of the people, it will be considered proper and advisable for the consular and diplomatic agents to assist them in any reasonable effort to secure grounds for the prosecution of their business.

It follows from what has been written that the citizens of the United States who undertake to settle in the interior must understand that they do so without any positive treaty sanction. While governmental protection as to their persons would follow them the world over, the Government does not hold itself bound to assist them in the prosecution of any business or employment whose exercise in the given locality contravenes the usage or laws of China.

The effort for permanent residence in the interior of China and the primary securing of the right to carry on business must be their own individual acts.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 595.]

Mr. Denby to Mr. Hykes.

LEGATION OF THE UNITED STATES,
Peking, March 19, 1888.

SIR: I have the honor to submit the following answers seriatim to the queries propounded by you in your communication of the 18th ultimo:

First.—By what tenure may citizens of the United States hold real estate in the open ports, but outside of the limits of the foreign concessions?

Answer.—The only specific authority to hold real property in China under the treaties with the United States is found in the twelfth article of the treaty of June, 1858. "Citizens of the United States may rent houses and places of business, or hire sites on which they can themselves build houses or hospitals, etc., at the open ports." The "tenure" is by lease. The practice has been to make the lease perpetual, which practically serves the purpose of a fee simple. Your attention is called to the first article of the treaty of July 28, 1868, wherein the Emperor of China reserves the right of eminent domain over all the lands and waters in China, and the right of jurisdiction over persons and property within any granted tract of land, except so far as the right may have been relinquished by treaty.

The application of what is called the exterritorial rights and jurisdiction of foreigners is too well known to require further reference.

Second.—What are the recognized limits of the treaty ports within which foreigners have the undisputed right to hold property?

Answer.—This question might be answered generally by stating that there are not in all localities any "recognized limits" of the treaty ports within which foreigners have the "undisputed" right to hold real property. The twelfth article of the British treaty of June 26, 1858, contains the words "whether at the ports or at other places." The words "other places" have been generally construed as meaning places contiguous to or in proximity to the open ports; such places as Taku, Woosung, Whampoa, Sicawei, and perhaps others will occur to you as coming within this construction. I think that each case of attempted settlement outside of a treaty port would have to be treated on the peculiar circumstances of location, convenience, and custom.

Under section 3 of the Chefoo convention, which provides that lekin shall not be collected at the treaty ports, the question of their limits is an important one to China. It comes up here now and again.

It is now the subject of controversy in Formosa, and it will continue to vex foreigners for many years to come.

Third.—According to the treaty, what is the proper legal way for foreigners to proceed to secure titles to such real estate? Are the various consuls furnished with blank forms of leases similar to those used by British subjects?

Answer.—The first branch of this question is answered by article 12 of the treaty of 1858. The practical making of a conveyance will be hereinafter mentioned. The answer to the latter branch is: British consuls issue title deeds only for land situated within the limits of British concessions. All title deeds to property situated outside of these concessions are issued by the Chinese authorities. The consuls of the United States have no authority to issue title deeds to real estate in China. Printed forms of deeds with an English translation, such as are issued by the Taotai at Shanghai, are obtainable at the consulate-general, but they are only available for property within the jurisdiction of the said Taotai.

Fourth.—Is it necessary, according to Chinese law and the stipulation of the treaties, to have the titles stamped by the Chinese officials (*i. e.*, the Taotai or magistrate) in order to have a complete and legal title to the property?

Answer.—Such a question of law as this can hardly be answered absolutely so as to apply to every possible state of facts.

The twelfth article of the treaty of 1858 provides certain conditions which may be held to be conditions precedent to the acquisitions of land. Among them is this: That the legal fees to the officers for applying their seal shall be paid. In the United States a deed would be good *inter partes*, at least by estoppel, without acknowledgment witnessed by a notarial seal. But unless the deed were acknowledged and recorded, it would not without actual notice to a subsequent bona fide purchaser be held valid as against such purchaser. Whether under certain circumstances a court might hold that title passed without the deed being sealed or stamped by the Chinese authorities I can not undertake to say. But it may be said with positiveness, as you suggest, that the want of a seal would create difficulty and confusion. *Prima facie*, there is no consummated legal transfer until the seal has been affixed. As we derive our rights chiefly from the treaties, it would seem that their stipulations ought in all cases to be directly complied with, and consequently all deeds ought to be sealed before possession is taken.

The practice at Shanghai is for the Taotai to stamp all deeds. In addition a note is made on the deed over the consul-general's signature and seal.

I believe the rule in China is, when a native offers to sell his land he must produce the original or old title deeds. These are examined and compared with the record of titles in the magistrates office before the sale can be made.

When land is mortgaged an indorsement setting out the mortgage is generally made on the deeds, and the deeds are then handed to the mortgagee to be held by him as security for his lien. You will recall that this was substantially the common law process for centuries in England.

It has been superseded in the United States by the system of recording in the office of the county recorder all deeds and mortgages.

In the United States a purchaser for value would not be affected by an unrecorded mortgage of which he had no actual knowledge. I presume the rule would be the same in China. But, I believe, that when the deeds are exhibited and mortgage liens are found to be indorsed thereon, the sale can not be consummated until the mortgage is satisfied. I repeat that these questions of mere law can not be answered positively without knowledge of the specific facts in the jurisdiction where a system of equity is co-existent with a system of law.

Fifth.—After a foreigner has secured land from a Chinese and he wishes to convey it to another foreigner, what is the proper method of procedure?

Answer.—The universal rule the world over is that immovable property—land—must be conveyed according to the law of the sites. Eminent domain and jurisdiction over land belongs to the Emperor of China, as to all other governments. He has the un-

questioned right to regulate the mode of conveyance, and to prescribe what acts shall be evidence of alienation. The forms used in conveyancing may vary in different localities.

At Shanghai an indorsement of the transfer is made on the title deeds in Chinese and English, and is duly stamped by the Taotai. A record of the transfer is kept in the register of land transfers. Three copies of the deed are made; one is retained by the Taotai, one given to the vendee, and one is filed by the consul-general.

Sixth.—By what tenure may foreigners hold real estate in interior places; that is, in places quite beyond the limits of the open or treaty ports?

Answer.—It has already been stated that under the treaties there is no authority for foreigners to hold land outside of the ports except in places contiguous or in proximity thereto.

But if it appears, as has occurred frequently, that foreigners by the consent of the authorities and people of any locality have permanently settled in the interior, and have procured the necessary title deeds, and have had them sealed, under article 12, cited, the tenure thereof would not differ from that under which land is held at the open ports. The mode of conveyance would be the same.

Seventh.—May such property be securely held in the name of a Chinese convert in trust for the missionary society?

Answer.—The subject of trusts is one of the most difficult. In China it seems to be usual with foreigners, in the interior at least, to have property conveyed to a trustee, who executes, as a precaution, a declaration of trust to the *cestuy que trust*, which is not recorded. The plan is probably legal. But the better plan would, in my opinion, be to have the deed made to the head of the mission in trust for his society, or to the society direct.

It would be presumptuous for me to undertake to advise my countrymen whose experience and knowledge vastly exceed my own on such questions as this.

Eighth.—Should such titles be stamped by the Chinese authorities?

Answer.—From what has already been said, this question must be answered in the affirmative.

Ninth.—What plan would you recommend a missionary society to pursue in getting property in interior places for mission purposes?

Answer.—The forms to be observed in the procurement of property have already been mentioned.

Tenth.—As to rules issued by the Yamên to govern the leasing of land to foreigners, you will find in the fourth volume Chinese Recorder, page 141, certain rules prescribed by the Yamên. They have some slight bearing on the subject. I know of no others. These rules were never acceded to by the foreign representatives.

These so called rules are too lengthy to be copied here, and have little reference to leasing land.

I am, etc.,

CHARLES DENBY.

No. 188.

Mr. Denby to Mr. Bayard.

No. 600.] LEGATION OF THE UNITED STATES,
Peking, March 21, 1888. (Received May 5.)

SIR: I have the honor to inclose herewith a copy of a letter sent by me to the managers of Pootung Wharf and Godown Company. I send it to you as explanatory of my action touching the important question of the bonding of kerosene in China, so far as it has been presented to this legation.

The question is still unsettled.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 600.]

Mr. Denby to Messrs. Russell & Co.

PEKING, *March* 22, 1888.

SIR: I have the honor to acknowledge the receipt of your communication of the 14th instant with inclosures. I thought that Sir Robert Hart had the power to make the order that you desired to bond the Pootung Warehouse. I therefore had an in-

terview with Sir Robert. He informed me that any application to change the existing rules of the bonding system must be made to the Tsung-li Yamên, and that he had no authority to make any change therein.

I shall not make such application until you, your directors, and your stockholders have more maturely considered the subject and have indicated to me in the most positive manner that such is your deliberate desire. I submit my reasons for your careful consideration. I need not, of course, say that my only object in this and all other matters which come before me officially is, consistently with the just rights of others, to advance the rights and interests of those who consult me, and especially of my own countrymen.

Is there not grave danger that the interests of your company will be put in peril by bringing the contemplated demand to the attention of the Yamên?

The situation, as I understand it, is this: All kerôsené now arriving at Shanghai is stored in your godowns. You at present monopolize that storage. The introduction of the bonded system has not, in the least, affected your business. Nor has it affected the business of dealers, because each and all of them have equal rights and there is no discrimination. The dealers lose the interest on the import duty, the Pootung Company loses nothing. Possibly the importation might increase with the extension of the bonding system to kerosene. Therein alone lies your prospective advantages. Let us look at the other side, at the risks to be run in applying now for the desired privilege.

It is not a matter of simple conjecture, but it is highly probable that if I ask that your warehouse may be bonded for kerosene, on the perfectly legal ground that this article is entitled to this right, the Yamên may answer, "Yes, we will instruct the China Merchants' Company to procure a river front, a wharf, and godowns for that purpose."

The actual result, then, of my friendly effort to do you a benefit would be an injury; you would lose the benefit of all the storage, which would go to the new ware-house.

I am not prepared to advise you to take this risk. You are no doubt better posted on your own business than I am, but it must be taken for granted that my position here gives me some insight into subjects of this character. If China were to provide, of its own accord, a warehouse for bonding kerosene, then the whole question would be *au tapis*, and I would not hesitate to press on the Imperial Government my opinion of the injustice of granting to one corporation, whether Chinese or foreign, a monopoly of an important business. While I admit the undoubted right of China to establish, own, and control Government bonded warehouses, I dispute the equity and justice of such a policy as applicable to the anomalous condition and history of Shanghai. I especially dispute the equity and justice of granting to one corporation, whether Chinese or foreign, a monoply of a business which the industry, skill, and means of all the merchants of all nationalities have built up.

If any dealer in kerosene were to present to me a claim to the right to bond kerosene, I should unhesitatingly admit his privilege to do so and should feel bound to further it. But the question now comes from the Pootung Company, which is interested in the storage of the article.

It, therefore, seemed proper to put the responsibility of the issue on that company, and in order to assist it in arriving at a correct result, to present my views. I have done so not in any wise as dictatory, but simply as advisory. I will be pleased to hear from you further.

I am, etc.,

CHARLES DENBY.

No. 189.

Mr. Bayard to Mr. Denby.

No. 299.] DEPARTMENT OF STATE,
Washington, March 22, 1888.

SIR: I inclose for your information a copy of a dispatch from the United States consul at Canton, No. 141, of January 17, 1888, covering a memorial addressed to the Imperial Government of China by the viceroy of the Two Kwangs and the governor of Kwang-Tung, calling attention to the injury to Chinese life caused by the kerosene oil imported by foreign merchants and requesting the issue of Imperial commands forbidding its importation. I add, also, a copy of a letter from Mr. J. H.

Flagg, dated the 20th instant, in which, as the representative of large petroleum interests in this country, he refutes the statements of the memorial and asks that no action be taken by this Government looking to the injury of that American commodity in China.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 299.]

Mr. Seymour to Mr. Rives.

No. 141.] UNITED STATES CONSULATE AT CANTON, CHINA, *January* 17, 1888.

SIR: I have the honor to transmit a copy of a translation of a joint memorial * from his excellency the viceroy of the Two Kuangs and his excellency the governor of the province of Kuang-Tung to the Imperial Government of China to prohibit or limit the importation of American kerosene, because of its hazardous nature and the disasters it has caused to lives and property of Chinamen. The document, which is worthy of attention, has not obtained publicity; but it has reached the consuls in what is deemed a reliable form, and, was carefully translated by an advanced Chinese scholar in the British consulate (Mr. Hosie), and is regarded as genuine as it is mischievous and dangerous; for the viceroy is relentless and unceasing in his warfare against foreign interests.

The British consul at Canton has sent a copy of the memorial to the British legation at Peking, and I have sent copies to Minister Denby at Peking and to Consul-General Kennedy at Shanghai.

I am, sir, your obedient servant,

CHARLES SEYMOUR,
United States Consul.

[Inclosure 2 in No. 299.]

Mr. Flagg to Mr. Bayard.

NEW YORK, *March* 20, 1888.

SIR: Through the courtesy of Mr. Lee, chief clerk of the Department, I have been furnished with a copy of the translation of the joint anti-kerosene memorial of the viceroy of the Two Kuangs and the governor of Kuang-Tung to the Imperial Government of China dated December or January last, wherein the memorialists set forth that certain disastrous conflagrations have lately taken place in the Canton province, which they ascribe to the use of American kerosene oil, and praying that the Imperial Government may negotiate a treaty with the United States looking to the exclusion of refined petroleum from the Empire, or subjected to such restrictive regulations as will essentially exclude it from the Empire.

Mr. W. H. Libby, the representative of the American Export Association and of the Standard Oil Company, has recently returned from China. A conference with him on the subject convinces me that this memorial was inspired by the local guilds who desire to suppress American kerosene in order to restore their former trade in the native ground-nut oil, and that the recent conflagrations complained of are made the pretext to justify this movement.

The memorial, however, does not successfully conceal the fact, and indeed openly states, that "kerosene oil comes for the most part from America and is largely consumed, owing to its cheapness;" and at the conclusion of the memorial it is further stated "that if kerosene could be suppressed native trade would be greatly benefited."

The memorial, however, emanates from a respectable, if not potent, source, and I feel justified, in behalf of the petroleum interests which I represent, in submitting a few brief considerations to show the absurdity of the claim it puts forth, even from a Chinese stand-point, and which I am sure you will very carefully consider before entering upon any treaty negotiations or submitting to any local regulations looking to a restriction of the petroleum exports to China from the United States.

These may be briefly summarized as follows:

(1) That such prohibition or restriction of petroleum would be in conflict with the purposes and objects of our commercial treaty with the Empire.

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* The memorial is printed as received from Mr. Denby. See Document No. 181, *ante*, page 267.

(2) That the balance of trade with China at the present time is largely against the United States, and petroleum being the foremost article of our exports to that country, its exclusion or essential restriction on the part of China would increase the existing difference in the exchanges of the two countries.

(3) That China is the only country which by hostile legislation and the imposition of almost prohibitive "lekin" taxes of a local character is now obstructing commerce in petroleum and that these measures to restrict its general use seem plainly in conflict with the spirit and intent of our treaties, and have already led to a marked diminution of our trade and established a commercial grievance on our side.

(4) That experience has indicated to us that any attempted curtailment of petroleum importation is not in accordance with the wishes or welfare of the Chinese people at large, but would be in the interest only of a few powerful commercial guilds.

(5) That China is using far less petroleum relatively than any country of importance, and that with the population estimated at one-fourth that of the world, its consumption of petroleum is only about one sixty-second. This fact, in connection with the statistics which follow, utterly refutes the complaint of the viceroys that the trade is assuming undue and alarmingly large proportions.

The following table shows the approximate petroleum consumption of 1887:

Country.	Population.*	Number of cases.	Per capita, 1 case to each—
United States	60, 000, 000	30, 000, 000	2
Java	20, 000, 000	2, 000, 000	10
Japan	37, 000, 000	2, 800, 000	13
India	240, 000, 000	4, 000, 000	60
China	360, 000, 000	1, 600, 000	225
Entire world	1, 500, 000, 000	100, 000, 000	15

*Statistics for 1880.

(6) The absence of any similar protest from any other quarter of the globe refutes the rash assertions contained in the memorial, China receiving and consuming the same quality of oil that is shipped indiscriminately to other countries throughout the world.

Years ago it became apparent to those largely interested in the development of the petroleum industry in the United States that the value of the costly plants and machinery necessary for the business must absolutely depend upon the ability to offer a product to the world which should be practically safe as an illuminant, and without attaining this degree of safety such investments must be almost without value. The great majority of human beings the world over from instincts of self preservation exercise reasonable care in the use of matches, gas, steam, petroleum, and kindred products utilized for heat or light, yet there are exceptional instances of gross carelessness and those of idiocy or crime which no precautions can avoid.

Modern conflagrations have demonstrated that even iron and granite can be consumed, and if petroleum would not burn the very object of its production would be defeated. The experience of the world, however, demonstrates that the refined petroleum of to-day, handled with ordinary care, is not a dangerous commodity. The manufacturer who refines it, the inspector who daily bends over it, the underwriter who insures it, the ship's master and crew who transport it, the merchant who handles it, the multitude in every clime who consume it, have long ceased to regard it with special apprehension. It is hourly being distributed in every land, and is floating on every sea. It has supplied one of the great wants of the world, and especially in the Orient where it has annihilated previous darkness and replaced very inferior and far more expensive products. It has especially proved a boon to the masses of the poor, for it has placed within the reach of the scantiest purse one of the primal necessities of life. It has rendered possible among those poor classes a host of evening industrial occupations unknown before, while evening schools and other educational advantages have been established for the first time in the history of Oriental civilization.

From the stand-point of the Chinese people alone, no considerable restriction can be laid upon the consumption of refined petroleum in China without serious detriment to the masses of her people. This fact being so self-evident suspicion is confirmed that the complaint is inspired solely by the local guilds who desire to resuscitate the old traffic in the native ground-nut oils by the exclusion of the cheaper and better American commodity.

Respectfully, yours,

JNO. H. FLAGG.

No. 190.

Mr. Denby to Mr. Bayard.

No. 602.] LEGATION OF THE UNITED STATES,
Peking, March 27, 1888. (Received May 5.)

SIR: I have the honor to inclose herewith a translation of a dispatch received from the Tsung-li Yamên on the subject of "drawbacks," in reply to my note inclosed in my dispatch to you numbered 554, of date January 26, 1888.

The Yamên proposes that from the fourteenth year of the reign of the present Emperor, beginning on the 112th customs quarterly period (July 1, 1888), all drawback certificates will be received in payment of all kinds of duties at the customs where they were issued. This rate, however, shall not apply to outstanding drawbacks.

Under the present system, drawbacks being receivable only for coast-wise duties, it is plain that to make them receivable for all duties will greatly appreciate their value and prevent their accumulation.

I would have preferred that the merchant should only be required to give bond that he would export the goods sent from the interior to a port of shipment in one year, or failing to so export them would pay the penalty of the bond.

My impression is, however, that the merchants and the foreign ministers will cheerfully accede to this settlement of a troublesome question.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 602.]

The Foreign Office to Mr. Denby.

PEKING, *March* 25, 1888.

YOUR EXCELLENCY: In January last the Prince and ministers had the honor to receive a note from your excellency in the matter of drawbacks on native produce exported from the Yangtze ports, wherein you observed that the rules in force seemed to be detrimental to the interest of foreign merchants, and you therefore requested that they be modified, etc. In regard to this matter the Yamên have repeatedly communicated with the northern and southern ministers-superintendent for foreign trade to instruct the several customs authorities under their respective jurisdictions to take under consideration the question as to whether or not a modification in the present system could be effected, and to present a report embodying the true facts of the case. These officers have now presented a report, as follows:

"When native produce is shipped at a river port the shipper must pay both export and coast-trade duty before he ships it. Drawbacks issued can be tendered in payment of coast-trade duties. This rule was adopted with a view to guard against shippers secretly carrying out schemes and smuggling. It has been in force for a long time. Moreover, when the special rules for tea were framed, some years ago, it was clearly made known that these could not be taken as a precedent governing other articles of native produce, and it was no easy matter to alter the established rules."

The Yamên would observe that in regard to this question, since there are in force fixed rules, it has not been convenient to suddenly make a change in them; but since your excellency has stated that they are working disadvantageously to the interest of merchants, and requested that they may be modified, the Prince and ministers could not but consider how an arrangement could be made, thus manifesting a desire to befriend the foreign merchants.

It is therefore proposed that from the fourteenth year of Kwanghsü, beginning on the one hundredth and twelfth customs quarterly period (July 1, 1888), all drawback certificates issued before that date will be received in payment of all kinds of duties at the custom-house where they were issued. Drawbacks that were issued previous

to that period will be received in payment of coast-trade duties at the office from whence they emanated. Under this rule on the one hand new drawbacks will not accumulate, and on the other hand old drawbacks can, from time to time, be all redeemed. This system will not prove detrimental to either the customs or the merchants—the modification made is just and equitable, of which the Prince and ministers believe your excellency will approve.

Now besides having written to the northern and southern ministers-superintendent for trade in turn to instruct the customs authorities on the Yangtze River to alike observe the new regulation, the Prince and ministers send this communication for your excellency's information.

No. 191.

Mr. Denby to Mr. Bayard.

No. 603.] LEGATION OF THE UNITED STATES,
Peking, March 27, 1888. (Received May 5.)

SIR: I have the honor to inclose herewith, for your information, a translation from a Chinese newspaper published at Tientsin, purporting to give the text of a memorial submitted to the Emperor by the Tsung-li Yamên, together with the boards of revenue and civil office, reporting favorably on a prior memorial submitted by Li Hung Chang, for developing the gold mines along the Mo-ho Valley, near the Amur River, and to the northwest of the city of Merguen.

The memorialist, after referring to the steps which have been taken to inquire into the subject, refers to the neglect of the Government in developing the mining resources of the country. The proximity of the Mo-ho to Russian territory, and the influx of foreign adventurers to these new gold fields, are also reasons why the Government should not lose time in assuming control of the works. Another reason which suggests itself to the writers of the memorial, and one which must be of great weight at present with the Government, is that the developing of mining industry in this desolate frontier district, open to the inroads of Russian adventurers, would cause the population to rapidly increase, and thus strengthen the frontier defenses of the Empire.

The memorialists then proceed to consider the proposals, sixteen in number, made by Li Hung Chang, in the memorial previously referred to, and in which he submits his plans for developing the mines in the Mo-ho region.

The most important of these measures are:

(1) The formation of a joint-stock company, with a capital of 200,000 taels, divided into two thousand shares.

(2) The engagement of competent mining engineers, and in this connection the viceroy speaks in the highest terms of the two American mining engineers, Professor Church and Mr. Ellsworth, who have been for the last year employed at the silver mines near Jeho and the gold mines near Pingtu, in Shantung.

(3) The necessity of constructing steamers to navigate the Amur, and thus render the Chinese authorities independent of the Russians, from whom they have heretofore been obliged to hire steamers whenever needed.

(4) The purchase of proper mining machinery. It is observed, however, that in the present case, the work being altogether placer mining, native appliances may prove sufficient.

(5) To obtain men to work in the mines it is suggested that those who have been driven away by the Government troops and have sought

refuge in Russian territory be allowed to come back, those alone excepted who have become Russian subjects, who "should not be harbored under any circumstances."

(6) The necessity of opening a road between Tsitsihar and Moho (500 miles) so as to facilitate transport; for this purpose it is proposed that a body of 1,000 or 2,000 soldiers be detached, who, when the work of road building is finished, can be employed in erecting telegraph lines, establishing stations, protecting convoys, etc.

The last clause provides that when the company shall have paid off its debts, among which is to figure a sum of 100,000 taels advanced by Li Hung Chang, and a further one of 30,000 taels advanced by the general of Hei Lung Chiang for preliminary expenses, it is to pay the salaries of the officers and men, the expenses of the office, the allowance of the extra garrison which it is proposed to establish, etc. "Whatever is left as the net profit shall be disbursed in the following manner: Thirty per cent. should go to the support of the army; 20 per cent. should be distributed as a bonus among the men, and the remaining 50 per cent. should be equitably divided pro rata among the share-holders."

Should a company be formed and the shares put on the market, and should the suggestions quoted above be incorporated in the charter, it may prove as difficult to find purchasers as it was when the Kaiping extension railway was started last year. It must also be borne in mind that joint-stock companies in which the official class has had a part have not proved successful in China; the management has always been most extravagant and preferred share-holders have invariably existed; lucrative sinecures have had to be provided for friends and relatives of directors, managers, influential officials, and share-holders, etc.

It can only be hoped that, in case the company is organized, it may prove an exception to the rule and turn out such a success that, as the memorialist remarks, "undertakings on a vast and comprehensive scale will be inaugurated, in order to enrich and strengthen our frontiers."

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 603.]

MEMORIAL ON GOLD MINING ALONG THE AMUR RIVER.

The Tsung-li Yamên, together with the boards of revenue and civil office, submit the following memorial in reply to certain proposals to develop the gold mines along the bed of the Mo-hó, which proposals were embodied in memorials by the military governor of Helung-kiang, and by Li Hung-chang. (See Chinese Times of 31st December, 1887.)

On the 24th November, 1887, the grand council handed to the Tsung-li Yamên a copy of a memorial by the military governor of Helung-kiang upon the subject of sending men to examine and survey the gold districts along the Mo-hó. This memorial was referred by rescript to the consideration of the memorialists.

Again, on the 20th January, 1888, a copy of a memorial from Li Hung-chang was received in which he proposed that the Government should take in hand the opening and developing of the gold mines along the Mo-hó. This memorial was likewise referred to the Tsung-li Yamên, with instructions that they draw up a reply thereon, giving the result of their views and deliberations.

The memorialists find that the Mo-hó, together with its adjacent mountains, is situated within the territory of Helung-kiang, to the northwest of the city of Merguen. According to previous surveys it is distant for Niao-tao about 800 li, from Yu-tao about 1,000 li, Tsitsihar 1,500 li. To the east is the town of Ai-hun, a distance by water of 1,500 li; to the north, just on the other side of the Amur River, are the recently established frontier towns of Pokana, Fu-ka-tun, Alaba, and Chin-chêng.

The gold ore along the bed of the Mo-hó is very abundant but the country is most wild and desolate. Hordes of ruffian characters used to frequently visit these places and stealthily dig away the ores, until finally they were driven away by the ex-military governor Wên Hsu, who also established a frontier post there to keep off these marauders. But so long as it is known that gold exists in abundance in these regions, men will always be eager to obtain possession of it, and it will be well-nigh impossible to afford permanent protection on account of the inaccessibility of the country. Formerly a Russian merchant named Sabatin endeavored, by representations through the Russian minister at Peking, to obtain a lease of the district known as the Tsu-lu-hai-tu, which was situated to the west of the Mo-hó, in order to develop the gold mines there. The Russian merchant preferred this request on the ground that our Government were taking no steps to develop these mines. Since then the memorialists have carried on a frequent correspondence with Li Hung-chang and Kung-tang upon the subject in question. On the 10th February, 1888, an Imperial decree was issued authorizing the appointment of a commission to inspect and examine the valley of the Mo-hó, and also to project measures for mining exploitations. Afterwards Li Hung-chang submitted a memorial embodying sixteen proposals, treating of the matter on hand in an exhaustive manner. The memorialists would humbly observe that in the countries of Great Britian, the United States, and Russia much of their national wealth is derived from the gold mines in Australia, California, and Siberia, respectively.

Although China possesses gold mines in abundance, yet heretofore our Government has never made mining a national undertaking, and consequently very little gold has been obtained. And of this small quantity of gold in China foreigners have exported the bulk abroad, so that what little remains here is enhanced in value. The contiguity of the Amur districts, where the gold mines exist, to Russian territory is another cogent reason why mining exploitations should not be delayed.

If our Government is to adopt a far-sighted policy, it must at once develop the Empire's resources and strengthen her frontiers, putting them upon a perfectly secure basis. Should the mining exploitations along the Mo-hó prove successful, immense benefit would accrue to Government and stockholders alike, while the desolate frontiers would become thickly populated and the poor miserable peasants would find sure means of obtaining livelihood. The memorialists now desire to consider carefully, one by one, the sixteen proposals of Li Hung-chang, because they feel that, this being the initial stage of national mining enterprise in China, too great caution can not be exercised.

According to the recommendation of Li Hung-chang, Li Chin Jung, expectant prefect, should be appointed by Imperial edict to be head director of mining enterprise in Helung-Kiang, as that officer has shown himself most zealous and indefatigable in his duties. The military governor of Helung-Kiang should be directed by imperial command to act in concert with this officer, Li Chin Jung, in all matters pertaining to mining operations and they should both evince the greatest diligence.

Whatever exigencies or difficulties may arise that have not been provided against in these deliberations, it will be the duty of Li Chin Jung to report then to Li Hung-chang, in order that he may communicate them to the Tsung-li Yamên for their information and consideration. The sixteen proposals are appended below, with the memorialists' suggestions and explanations.

(1) *The establishment of a general mining office.*—In inaugurating an important enterprise such as mining, the first step is to provide the requisite funds for the various purposes of purchasing machinery, erecting buildings, ordering steam-boats, constructing roads, engaging mining engineers, stationing garrisons to protect the mines, etc. These operations involve expenses on a large scale, to meet which funds must be obtained by forming a joint-stock company. At present Li Hung-chang has advanced 100,000 taels, and the military general at Helung-Kiang 30,000 taels, to be used for preliminary expenses. After the joint-stock company has been formed and all the required capital raised, this advanced loan will be returned to Li Hung-chang and the military governor.

(2) *The formation of a joint-stock company.*—Joint-stock enterprises in China are what are known as "kung su," or corporate companies in Western countries. These are really enterprises by and among the people. In recent years the China Merchants' Steam Navigation Company and the Kaiping Mining Company are examples of corporate companies, composed of merchant stockholders. It is proposed to raise a capital of 200,000 taels, to be divided into 2,000 shares. Branch offices will be established at Kirin, Tientsin, and Shanghai for the solicitation and allotment of shares, and afterwards for the payment of dividends to shareholders and other purposes. All details must be managed with absolute honesty, in order that stockholders may derive benefit and corporate companies may win popular favor.

(3) *The selection of the locality for the commencement of mining operations.*—It is found that the gold vein extends from the west mountain on the Ngo-erh-ku-na River, through Chi-kan-a-le-han and terminates at the lower section of the Amur River, a

total distance of 500 li. This district was formerly known as the "Chin Yueh," or "gold cave." Along the streams of the Yuen Pao mountain, which lies on the Mo-hó, traces of the former digging by gold depredators are still visible. It is decided that the mining operations be confined to this locality, beginning with those places that are richest in gold ore, as may be determined by the mining engineer, and extending the field step by step as may be advisable. Suitable buildings should be erected where the operations commence, for the accommodation of the officers and miners.

(4) *The engagement of mining engineers.*—During past years Chinese mining enterprises have suffered greatly through the employment of incompetent foreigners. To secure the service of an expert mining engineer is not an easy matter, but it is reported that the American engineer, Mr. Church, employed at the Jeho silver mines, and Mr. Elsworth, employed at the Pingtu-chou gold mines in Shautung, are men of great ability. For the present enterprise the strictest caution should be exercised to insure the engagement of honest and able men, in order not to squander the funds needlessly.

(5) *The exercise of jurisdiction.*—The Mo-hó is distant from the town of Tsitsihar by land 1,500 li; by water via Ai-hun the distance is still greater. About this region Russian steamers ply backwards and forwards on the Amur River, and it is most likely when mining has once commenced matters will come up for settlement with the Russian officials. Some one must, therefore, be empowered to transact such official business, as otherwise, by reason of the great distance of the mining districts, it will be quite impossible to report every question to headquarters. It is decided, therefore, that Li Chin Jung be authorized to deal with the Russian officials in all matters except those involving vital international interests. In which case they will be reported to Li Hung-Chang, or the military governor of Helung-Kiang.

(6) *The construction of steam-boats.*—In the Russian treaty of 1858 it was agreed that only Chinese and Russian steamers shall be allowed to navigate the Amur River, and all other nations are debarred from the privilege. During the 4th moon of the 12th year of Kiang Hsü, the military governor of Helung-Kiang frequently hired Russian steamers to transport food supplies for the troops who had been sent to expel the gold marauders. This was found to be a great inconvenience, and subsequently efforts were made to purchase one of the Russian steam-boats, but the matter fell though. It is now decided to have two steam-boats constructed at the arsenal at Kirin, to be used for purposes of transport; also to construct four other boats for cruising and policing the rivers. As the steam-boats will require much fuel, the military governor should detach a portion of the soldiers to fell trees and supply all the fuel needed.

(7) *The purchase of machinery.*—In working placer mines a necessary step is to draw off the water, and for this purpose suitable machinery must be provided, as hand labor is impracticable. But as the depth of the water in the Mo-hó, where the gold is, does not come to 10 feet, perhaps it will hardly be necessary to purchase machinery for pumping purposes. Whatever machinery is required, however, must be supplied.

(8) *The employment of men.*—The country about the Mo-hó is wild, desolate, and inaccessible, and men contemplate going there with dread. But for the present undertaking it is absolutely necessary to have competent, upright, and energetic men, who will spare themselves neither time nor trouble to achieve success. It is proposed that the officers be appointed probationally. After three years' conditional service, those who evince capability and usefulness will receive permanent appointment, and those who are specially meritorious will also be recommended for official promotion. In this manner men will be encouraged to earnest effort and upright behavior.

(9) *The recall of refugees to work in the mines.*—It is found that of those who formerly dug away the gold ores the principal part were Shantung and Chih-li emigrants who are without occupation. These had wandered from Hai-shen-wei and Chía-kó-tú to the Mo-hó, whence they were subsequently expelled by the Government troops sent against them. They then crossed the Amur River, and drifted into Russian territory in considerable numbers. It is thought that in opening these mines an opportunity should be offered to these men, so that those who choose may return to Chinese territory and receive employment. An exception should, however, be made in the case of those having already become Russian subjects, and they should not be harbored under any circumstances.

(10) *The construction of roads for purposes of transport.*—The distance from Tsitsihar to Ai-hun, and from Ai-hun to Mo-hó, both by land and by water is 2,350 li. Li Chin Jung reports, however, that the entire distance from Tsitsihar to the Mo-hó by land alone is only 1,500 li, which is shorter than the usual land and water route by 800 or 900 li. The land route from Tsitsihar to Mo-hó, however, traverses inaccessible mountains and impenetrable forests that have not seen the tracks of men. It is proposed that a body of 1,000 or 2,000 soldiers be detached to fell the trees and clear a road, and for this extra duty that they be compensated by extra allowances. This measure is suggested with a view of facilitating transport. The military governor of Helung-Kiang should be directed to concert plans with the commander-in-chief of

the territorial army of Manchuria for putting this measure into execution. When the work of road construction has been completed the soldiers can be employed in erecting telegraph lines, establishing stations, protecting goods *in transitu*, etc.

(11) *The stationing of an extra garrison.*—At the newly-established frontier post of Po-lo-chia-ta the garrison numbers only 500 men, and they are there to suppress local disorder and keep guard over the mines. In view of this fact, the request for an extra garrison should be granted, especially as the expenses of said garrison will be borne by the mining company.

(13 to 15) *The appointment of treasurers and accountants; the co-operation of the shareholders in the management; the economizing of the company's funds, and the methods of disbursements for the company.*—All these four items belong to the duties of the head director, and it behooves him, in that capacity, to exercise due discretion and unimpeachable integrity.

(16) *The payment of dividends.*—It is proposed that when the mines have brought forth sufficient returns, the first step be to cancel all the company's debts, interest and principal. After that the salaries of the officers and men, the expenses of the office, the allowance of the garrison, etc., should be paid. Whatever is left as the net profit should be disbursed in the following manner: Thirty per cent. should go to the support of the army; 20 per cent. should be distributed as a bonus among the men, and the remaining 50 per cent. should be equitably divided pro rata among the shareholders. A detailed statement of the company's receipts and expenditures should at the end of every year be submitted to the examination of the board concerned. Should the present attempt prove successful, and the ores be found in great abundance, undertakings on a vast and comprehensive scale will be inaugurated in order to enrich and strengthen our frontiers.

No. 192.

Mr. Denby to Mr. Bayard.

No. 604.] LEGATION OF THE UNITED STATES,
Peking, March 28, 1888. (Received May 5.)

SIR: The currency of China is anomalous. It is in a transition state which is destined to lead up to a mint.

The want of uniformity in the size and value of cash is a crying evil.

The Government understands thoroughly the confusion that exists, but conservatism and a fear of the people have hitherto prevented the adoption of a remedy.

Some time ago it was proposed to issue "standard" cash in part payment of monthly salaries. It was not intended to supersede the large Peking cash. These cash were first introduced during the reign of Hsien Teng, when, owing to the Yunnan rebellion, copper became scarce. Their circulation is confined to Peking.

The issuing of standard cash is for the purpose of creating uniformity between the provincial and Pekingese currencies, but the proposed change has disarranged the currency in Peking. The people believe that the Peking cash will be withdrawn from circulation. At first the Peking cash was worth 10 standard cash, now it is worth two and a fraction. The banks have withdrawn their notes from circulation, for fear that they will have to be paid in standard cash, and have substituted notes payable in Peking cash. The influence on business is most disturbing.

I inclose herewith a decree issued March 12; its purport is that Peking cash will not be withdrawn, but that this cash shall be supplementary to the standard cash.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 604.]

CURRENCY QUESTION IN PEKING.

A decree.

MARCH 12, 1888.

We are in receipt of a memorial from the governor of Shun-t'ien Fu stating that, owing to the proposed issue of standard cash in part payment of monthly salaries, the circulation of Peking cash has become restricted in the market. When the introduction of standard cash was first decided upon it was intended that they should be supplementary to the Peking cash, with which they were in all mercantile and official transactions to exchange in the proportion of two to one; but the disuse of the latter currency was never contemplated. Though this has been announced in successive edicts and confirmed under regulations published by the board of revenue, still it has not had the effect of removing the uneasiness felt in commercial circles, and the process of selecting the larger and heavier Peking cash and rejecting the lighter still goes on. The result is that the people are unable to exchange their cash for the necessaries of life. The exchange is manipulated by dishonest traders to the great injury of the rest of the population. We therefore command the governor of Shun t'ien and the commandant of the Peking gendarmerie to issue fresh proclamations authorizing the continued circulation without any process of selection of all Peking cash, two mace and upwards in weight, which have been coined at the Government mints. Let any attempt to restrict the circulation of this currency under the pretext that it is to be discontinued, or any forcing of the price of commodities, be severely punished in accordance with law.

No. 193.

Mr. Denby to Mr. Bayard.

No. 605.] LEGATION OF THE UNITED STATES,
Peking, March 28, 1888. (Received May 5.)

SIR: I inclose herewith a copy of a recent decree issued by the Emperor.

I send it as a specimen of elevated Chinese composition. It exhibits commendable sentiments and is evidently intended to quiet the popular mind, which has been growing restive over recent expenditures.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 605.]

FUTURE RESIDENCE OF EMPRESS DOWAGER.

A decree.

MARCH 13, 1888.

Ever since our childhood, when we succeeded to the great inheritance, Her Majesty the Empress Dowager has conducted the Regency with unremitting care by night and day, and during the ten years and more of her rule the Empire has been consolidated and its people have enjoyed happiness. Last year we received Her Majesty's commands to assume the personal control of the Government, but she was graciously pleased to vouchsafe to our childish inexperience the benefit of her advice. When we reflect on the arduous exertions and the unremitting attention, extending to the minutest details, which our revered mother has bestowed on the Government of this great Empire for more than twenty years, during the present and preceding reigns, we feel night and day inward uneasiness and searchings of the heart at the thought that she had no place at her disposal wherein she might seek rest and enjoyment during the little leisure that was left after the discharge of the manifold duties of the state. The Western Park, which adjoins the palace, formed the residence at one time of

the Emperor K'ang Hsi. Its buildings and grounds are still in good order, and with slight repairs it can be converted into a suitable retreat for Her Majesty.

The Emperor, K'ien Lung, assigned the Ta-pao-ên Yên-shou temple in Wan Shou-shan to the Empress Mother, and attended upon Her Majesty there at the celebration of three decennial birthdays. In reverential imitation of this commendable and happy precedent, we also propose to restore the grounds and buildings of the Ch'ing Yi-yüan at Wan Shou-shan, and place it at the disposal of Her Majesty for use on such auspicious occasions. Attended by all ministers of our court, we would at each decennial birthday there offer our congratulations to Her Majesty, as some slight token of our respect and dutiful affection. After repeated solicitations, Her Majesty has been graciously pleased to assent to this arrangement, and has issued the following decree:

"Ever since we assumed the Regency we have spent our nights and days in fear and trembling as if standing on the brink of a precipice. Though the Empire has now in a measure been restored to peace and happiness, still we have never relaxed our unremitting attention for a single moment. We are aware, however, that the Emperors of our sacred line have in the administration of their Government ever paid attention to the wants and sufferings of the people, and that the wanton license of former dynasties has been conspicuously absent in laying out their pleasure grounds, in the conduct of hunting expeditions, and in similar recreations. As the present proposal is intended as an expression of dutiful regard on the part of His Majesty, we can not endure the thought of offering undue objections to its acceptance, the more especially as the funds for the work will be drawn from our private savings, and will entail no expense or sacrifice on the country. Rumors, based on insufficient knowledge, are prevalent in the outside world on the subject, and suspicions are even entertained that this is the beginning of the gradual restoration of the whole summer palace. All this is very far from being in keeping with the anxious thoughts we cherish in the depth of our seclusion. The fact is that considerations of time and circumstance would not warrant a revival of the establishment of courts and the erection of public offices such as Yung Chêng's reign witnessed. Granting that the people have advanced in material prosperity, and that peace prevails within the four seas, there are still countless measures to be taken for continuing the glory of our predecessors and transmitting a worthy example to our descendants. Our duty is to select and endeavor to give effect to the more important of these, and we trust the nation will believe that our thoughts are directed to this object and not to the frivolities of pleasure and sight-seeing. The Emperor is now advancing to manhood, and the greatest respect he can pay to us will be to discipline his own body to develop his mind, to pay unremitting attention to the administration of the Government, and to love his people. Let not the present method of paying respect to us be made an opening for the gratification of future ease and enjoyment. It is our heartfelt hope that the ministers of the court will vie with each other in checking extravagance and in securing the attainment of good government."

We feel it to be our bounden duty to pay implicit obedience and respect to Her Majesty's commands by abstaining from the least show of laxity or extravagance. All our ministers, too, should consider it their duty to further her earnest exhortation by directing all their energies to the discharge of their public functions and the promotion of the public welfare. The works in the Western Park being now nearly finished, we have selected the 20th of May next as the day on which Her Majesty will take up her residence there. The arrangements respecting her staff of attendants and guards will be based upon the regulations previously drawn up by the princes and ministers.

Let this decree be promulgated for general information.

No. 194.

Mr. Denby to Mr. Bayard.

No. 606.] LEGATION OF THE UNITED STATES,
Peking, March 29, 1888. (Received May 5.)

SIR: The earthquake and volcanic phenomena of the past few years have been very remarkable, and these great disturbances continue to be produced.

From a recent report of the governor of Yunnan, which appeared in the Peking Gazette, a tremendous earthquake has occurred in the south of the province.

In his memorial to the throne the governor states that the disturbance commenced between 5 and 6 p. m. on the 14th of January last, and continued till 4 a. m. on the following day. During the period there were ten or more serious shocks, which were accompanied by a noise as of thunder. In certain district cities the town walls were either thrown down or cracked, while the public offices and temples shared the same fate. At a place called Shih Ping, in the south of the city, eight or nine tenths of the private houses fell; in other parts the devastation was rather less, but still even there over a thousand rooms were left with cracked or standing walls—over 200 persons of all ages were crushed to death, and more than 300 permanently crippled. There was much loss of life or limb in the surrounding villages, it being estimated that to the east 800 were killed and about the same number wounded; to the south, 200 and 400; to the west, 300 and 500; to the north, 100 and 200; making a total of over 4,000 killed and wounded.

This does not, however, represent the entire suffering caused. Many people, rich and poor, are left without homes—all their property and provisions being buried beneath the ruins.

The earthquake was felt in other places, which caused suffering of a similar nature to that in Shih-ping.

The memorialist, in view of the unprecedented magnitude of the disaster and the vast extent of misery caused, has instructed the officials in the disturbed localities to lose no time in administering and providing for the wants of the unfortunate sufferers.

In a place called Wu Yuen Ting the district jail was thrown down, from which all the prisoners escaped.

A rescript from the Emperor shows that His Majesty is much distressed by this unfortunate and serious calamity and orders that measures be taken at once to insure relief to the sufferers.

I have, etc.,

CHARLES DENBY.

No. 195.

Mr. Denby to Mr. Bayard.

No. 607.] LEGATION OF THE UNITED STATES,
Peking, March 31, 1888. (Received May 31.)

SIR: If Chang Chi-tung, whom I shall shortly see in Canton, continues to act on the lines he has adopted as to kerosene, the considerations hereinafter stated may become important.

That the levying of enormous internal taxes on imported goods should be energetically resisted is the purport of your dispatch No. 209 of June 24, 1887.

The ground of this resistance is that such taxation is more or less prohibitory of an importation which the treaties permit.

The power of a State to tax imported articles has been, under certain limits, recognized in Brown *v.* the State of Maryland (12 Wheaton 419), and the License Cases (16 Curtis, 516). But these cases arose under the Constitution of the United States.

The familiar rules for the interpretation of treaties do away with strict construction and require that the interpretation shall be favorable rather than odious; that the whole context shall be considered, and that the reason of the treaty shall prevail.

Under the treaties, importations are permitted to be made by foreigners on the same terms that are accorded to Chinese subjects.

That the goods so imported escape lekin while in foreign hands is admitted. But, under the guise of internal taxation, they are subjected in Chinese hands to special duties which are not levied on native produce.

The test proposed by Chang Chi-tung is the nationality of the owner. He claims that China has the undoubted right to tax her own citizens as she pleases. This view is erroneous. The element to be considered is not the nationality of the owner, but the character of the goods. The harm done by levying an extraordinary tax on imported goods in the hands of a Chinese subject is just as great as if they were in the hands of a foreigner. Imports will certainly cease in either case whenever the tax becomes so great as to make importation unprofitable.

Under the treaties this internal taxation may be resisted long before it becomes prohibitory.

The true principle to be contended for is that there shall be no discrimination against the imported article. That China might tax all oils, native and foreign, a uniform sum, stopping short of a point which would imply prohibition, might be admitted. But, it can not be admitted that, for the purpose of benefiting a particular native article, China may, under the guise of internal taxation, discriminate against a foreign article of the same character.

If China may lawfully do this the treaties are valueless. It would be exceedingly easy to annihilate foreign trade without infringing the treaties.

I have, etc.,

CHARLES DENBY.

No. 196.

Mr. Denby to Mr. Bayard.

No. 617.] LEGATION OF THE UNITED STATES,
Peking, April 5, 1888. (Received May 31.)

SIR: I have the honor to inclose herewith a translation from the Shen Pao, a Chinese paper, of an account of the Emperor's annual visit to the Temple of Heaven, February 20, 1888, to offer sacrifices.

This ceremony is altogether the most imposing and most peculiar of Chinese religious rites. The most imposing because the head of the empire, who is the chief priest of its religion, does homage in the name of countless millions. He typifies his people and his race, and as their representative offers sacrifices.

It is the most peculiar because there is no idolatry of images here, no wooden or earthen gods. The deity is Shangti, the Supreme Ruler. He is the Lord of Heaven, the arbiter of nations. He is imperceptible to the senses. He is not clothed in human form like the Zeus of the Greeks. The conception of him is more ideal than that of the Jehovah of the Jews. This ideal has never been incarnate like the Christ. While Confucianism, Buddhism, Taoism have millions of adherents, and their followers have created an endless pantheon of divinities, Shangti stands alone in his supremacy above all the waves of corrup-

tion. There glow around him the rays of a primeval faith, and he symbolizes the Spirit of the Universe.

The Temple of Heaven is located in the Chinese City, a short distance from the Chién Mên, the chief gate of the Tartar City. It is a single tower covered with azure tiles, representing heaven. It contains no image.

The solemn rites are performed on a marble altar outside of the temple. On this altar, once a year, a bullock is offerred as a burnt offerring.

Notices of this ceremonial, as of all others in which the emperor participates, are regularly sent to the ministers, wherein they are requested to notify their countrymen not to appear on any of the streets to be traversed on these occasions. As Chinese are equally excluded the ministers have raised no question over this request.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 617.]

THE EMPEROR IN THE TEMPLE OF HEAVEN.

On the 9th day of the first month (20th of February) the Emperor of China went in person to the Temple of Heaven at Peking to pray for the harvest this year with the usual ceremonies.

The day before His Majesty passed in the Hall of Abstinence in prayer, fasting, and meditation.

On the 19th of February, at the fifth drum (the fifth watch before daylight), the T'ai Ch'ang Sze (a high bureau intrusted with the arrangement of such ceremonials) placed a yellow table (the imperial color) in the Hall of Great Harmony, the T'ai hwo Tien. South of the Emperor's seat was placed an incense burner shaped like a small pavilion, and in another similar erection, east of the left hand pillars, stood a scroll on which a sentence of prayer was painted in the choicest calligraphy. To the west of the right hand pillars of the building, stood yet another pavilion to contain the mounted rolls of silk which were painted with similar inscriptions. The Tsan Li Lang and the Tuh Cheeh Kwan (whom we might call "the Masters of Rites and Readers of Prayers") stood respectfully waiting outside the gate of the Hall of Great Harmony, holding in front of them the silken scrolls in baskets and the incense in bronze censers.

The chief of the T'ai Ch'ang, the ceremonial bureau already mentioned, called by Mr. Mayers the court of sacrificial worship, accompanied by other officers of the bureau, were waiting inside the hall, and when the time arrived he proceeded with the imperial astronomer to the gate of pure heaven (a palace gate called the K'ien T'sing Mun), to announce to the Emperor that it was two-quarters of the hour of the hare (*i. e.*, 6.30 a. m.), and his majesty issued from the above-named gate riding in a sedan chair, passed through the back left gate, and thus to the hall of great harmony, where his sedan chair was deposited at the northern steps and he entered the building and stood in front of the left pillars, facing the west.

Four officials of the Han Lin Yüan (or Imperial Academy of Literature) were standing outside the right-hand door of the building, facing east. The readers of prayers now issued from the inner cabinet, holding in front of them, respectfully elevated, prayers written on scrolls of paper, and entered the middle gate of the hall of great harmony, and the silken scrolls and incense were borne after them into the hall. In front of them were borne a pair of incense-burners. The masters of rites, ten in number, conducted them, preceding them, and mounted the central steps as far as to the vermilion dais. The readers of prayers, those who bore the prayer-scrolls, and the bearers of silken scrolls and incense having entered the central gate of the hall, reverently laid down their burdens one by one on the yellow table, and retired after three kowtows (knocking head on ground, prostrations).

The chief of the court of sacrifice (T'ai Ch'ang) opened a prayer-scroll, and the masters of rites spread a cushion on the ground. The Emperor advanced in front of the yellow table and reverentially inspected the objects lying on it, after which he performed the genuflection called "once kneel and thrice kowtow" and then took up his position again, standing as before. The chief of the court of sacrifice rolled up the prayer-scroll again and the cushion on which the Emperor had just knelt was removed.

The readers of prayers now advanced to the yellow table and made three kowtows. They respectfully take from the table and bear aloft the prayer-scrolls, the silken scrolls, and the incense, which they deposit one by one in the graceful pavillion-like stands meant to receive them. With three more kowtows they retire.

The mandarin in charge of the incense now carries a box full of incense to the incense-stand, places it gently there, and withdraws.

The bearers of the prayer-scrolls now leave the edifice by the central door, the stand containing the incense precedes them, and that which contains the silken scrolls follows behind. The chief of the court of sacrifice, kneeling, informs the Emperor that this part of the solemn rite is over.

His Majesty mounts his sedan chair again and returns to the palace.

The clock strikes 9 a. m., and the Emperor, in dragon robe and cap of ermine surrounded by a knob of crimson velvet, issues from the palace gate, called the pure heaven gate, seated in a "summer chair" borne by eight men. Passing successively through the back left gate, the center left gate, and the gate of great harmony, he arrives at the mid-day gate, where he descends from his sedan chair and ascends his great jade palanquin, borne on the shoulders of thirty-two men. As he mounts, the equerries in waiting hold a vermilion ladder or flight of steps leading up to the palanquin to assist him in getting in. All the bearers are dressed in outer robes of red silk and inner robes of ash-colored linen. On their feet were fast-walking boots of the same gray material, with thin soles, the upper part round the ankles being of black fur. They wore caps of leopard skins, dappled as if with coins of gold, with red velvet plumes, kept in position by gold filigree plates, from which floated yellow feathers down their backs. The palanquin is 8 feet high and weighs 3,000 catties (about 1 ton 16 hundred-weight), but the bearers walked swiftly, under its weight, like lightning flashes or the shooting stars rush across the sky, and at every *étepe* of one *mu* and three-tenths they were relieved by a fresh set of thirty-two men.

When the Emperor ascended the great jade palanquin, the sedan with its eight bearers still followed him. Beside the palanquin walked two of the chief equerries to support it.

Ahead of this stately procession rolled the five gigantic cars ordinarily drawn by elephants, which animals were this year absent from the *fête* by the permission of the Emperor, to whom the danger of their suddenly getting ungovernable was pointed out.

Looking now behind the imperial palanquin, we see marching the ten men armed with spears hung with leopard's tails, the ten men with swords, and the dozen men carrying bows and arrows, all representatives of the Tartar corps of the *paitanga* bodyguard.

Just behind came, walking, about a hundred of the highest Manchu nobility, princes, bei-lehs (emirs), bei-tszes (sons of bei-lehs), dukes, marquises, and earls, assistant chamberlains (who command in turn the palace guard), general officers of the brigade of imperial guards, the comptroller of the household, and the prince of the imperial blood, who, as president of the clan court, preserves the genealogical record or family roll of the Ta Tsing dynasty, all armed either with bows and arrows or with large swords. As soon as this noble company arrive outside of the middle gate, they all mount their charges, before that having been obliged to walk on foot. The rear is brought up by two assistant chamberlains, with their suite, bearing two immense yellow dragon standards.

Outside the mid-day gate are kneeling a great number of civil and military mandarins in court dresses, who may not accompany the procession, being not of sufficiently high rank, and so pay their respects to it thus as it defiles past.

The stone road to the temple of heaven, which is about 8 *li* long (2½ to 3 miles), although not yet mended with stones, as intended, looked neat with all its inequalities hidden in a uniform covering of yellow soil. At the mouth of every road or street, whether within the wall of Peking or outside of it, which ran into the route of the procession at right angles to its course, were mat sheds, draped outside with blue cloth, serving as tents for Chinese infantry ("green standard"), who mounted guard at each corner, armed with whips to keep order and silence amongst the people in these streets. At every five paces of the road along which the procession passed stood a guardsman of the van-guard, in full uniform, sword by his side and whip in hand. The gates and doors of every house and shop were closed, and red silk decorations hung in festoons in front of them; all along the route and in front of every sentry station were displayed bows and arrows, swords and spears, arranged in symmetrical order, with decorative lanterns and satin hangings. The Emperor, having arrived at the left gate of the brick wall of the temple, exchanged his great jade palanquin for a sedan chair with eight bearers only, and on entering the west side of the sacred path inside the left gate of prayers for the year descended, and on foot walked up to the chamber of imperial heaven and held a stick of incense burning in his hand in the prescribed manner, after which he inspected the victims (oxen, etc.) laid out

there, the sacrificial vessels of bamboo and wood, and, returning to the west side of the sacred road, got into his sedan chair again, went out at the gate of prayers for the year, and repaired to the hall of abstinence, to the immeasurable chamber, to pass a season in holy contemplation.

(The guards inside and outside the temple are here described. The duty of patrolling the temple of heaven, etc., devolves upon the princes of the blood on these occasions.)

The Emperor, in the immeasurable chamber of his hall of abstinence, at 4 o'clock in the morning commanded supper, which was duly served by the gentlemen in waiting, and then the bronze statue bearing on its head the inscription "Abstinence" was set up fronting his majesty as he sat.

The K'eh-k'in prince (one of those descended from grandsons of T'ai Tsu and T'ai Tsung, chiefs of the Manchu dynasty before their conquest of China), accompanied by the Emperor's aide-de-camp, the chief of the eunuchs, and other officers, kept patrol outside the apartment.

The chief of the court of sacrifice already mentioned had arranged a prayer mat on the ground outside the chambers of prayers for the year, and had set up the tablet of Shang Ti (the supreme god) in the interior of the chamber, facing south, with on its right and left the tablets of the Emperor's ancestors facing east and west respectively. A great curtain had been hung up outside the door of the chamber.

The Emperor, in his sacrificial vestments embroidered with the golden dragon, a court *barrette* of white ermine on his head, surmounted with an immense pearl set in a gold ornament representing nine dragons, and a necklace of one hundred and eight precious pearls round his neck, issued from the hall of abstinence at the appointed hour, riding in a summer sedan chair borne by eight men, entered the temple, and reached the left gate of prayers for the year through the west gate of the brick wall of the temple. Here, alighting, he walked into the chamber of prayers for the year, and adored Shang Ti of imperial heaven and his own august ancestors. The animal victims and the sacrificial vessels of various sorts were here already laid out in the prescribed order.

The reader of prayers knelt in front of His Majesty, holding up the prayer scroll in both hands, and reverentially recited the prayer. As it was still dark inside the building, another official of the court of sacrifice knelt beside him, with a candle to throw a clear light on the written words of the prayer. When the prayer had been read the Emperor made three kneelings and nine kowtows, and rose again to his feet. The incense-bearer brought the incense, the wine-cup bearer brought the cup, the silk-bearer the silk; and the official with the cushion spread it out on the floor. The master of ceremonies ushered His Majesty to his place. The Emperor knelt thrice and kowtowed nine times, and when he rose again the musicians played three antique airs.

The paper sycee and the offerings of food from the carcasses of the animal victims were held up and presented as prescribed by ancient forms. Officers of the board of ceremonies (Li Pu), of the court of sacrificial worship, and of the court of imperial entertainments (or banqueting court), holding respectfully in both hands the paper scroll, the silken prayer scrolls, and the incense case, advanced to the great incense-burner and solemnly burned all these objects to ashes. The chief of the court of sacrificial worship knelt and announced to the Emperor that the ceremony was finished.

His Majesty, ascending the summer sedan chair, returned to his chamber in the hall of abstinence, to change his attire and have some repose. Then getting into his palanquin again he was carried through the inner and outer gates of the temple, the State musicians performing an ancient melody. The cortege, in the same order as before, passed through the Chêng Yang gate, and the Emperor burned incense in the Buddhist temple and the temple of Kwan Ti, the god of war. Taoist priests in full attire knelt to receive him at the left of the entrance. When this ceremony was finished the Emperor passed through the Ta Tsing gate, the music ceasing as the bell tolled out from over the Mid-day gate. Passing through the T'ien Ngan gate, the Tuan gate, the Mid-day gate and the T'ai Hwo gates, and the K'ien T'sing gate, he returned to his palace in Peking and the procession dispersed.

The Emperor entered the palace, paid his respects to the aged Empress, and went to his cabinet.

The knowledge that our Emperor thus worships the gods and reveres his ancestors so devoutly, and prays for the people so that they may be fed and clothed, well protected, and happy all over the land, must surely fill us with loyalty and admiration of his august person.

(Abridged from the Shên Pao.)

No. 197.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 618.] LEGATION OF THE UNITED STATES,
Peking, April 7, 1888. (Received May 31.)

SIR: I have the honor to report that the question whether the foreign ministers should shortly demand to be received in audience by the Emperor is again being agitated.

It is reported that the Emperor will on the 20th proximo escort the Empress to her separate residence, will leave her there, and will thenceforth assume the sole rule of the Empire.

It is argued by some of the ministers that this would be an auspicious and proper time to demand audience. It is said that the foreign powers have so far forgiven the gross want of courtesy displayed by China to their representatives while they receive and honor the ministers sent by China to them on account of the ignorance of international usages heretofore existing among the Chinese, but that this excuse no longer exists. Some of the ministers are inclined to ask an assurance from their Governments that if the Emperor now refuses to receive them the ministers of China will in like manner be refused audience by the heads of their Governments.

I do not ask authority, in the discussion of the audience question, to say that if audience is denied to me it will be denied to the Chinese minister at Washington. I do not think it proper to pledge my Government to any particular course on this question.

There may be time to report the facts and ask positive instructions.

I need say nothing on the general question, because my archives show the unbroken concurrence of yourself and your predecessors in favor of demanding audience. It is not a matter of etiquette, but a matter of vital interest to foreigners in China.

I learn that the Emperor will not be married this year. If demand for audience were now made, an answer might be postponed until his marriage, which will occur next year.

Owing to the great length of time required in the transmission of dispatches and answers, I deemed it proper to present this question now.

I have, etc.,

CHARLES DENBY.

No. 198.

Mr. Bayard to Mr. Denby.

[Extract.]

No. 304.] DEPARTMENT OF STATE,
Washington, April 10, 1888.

SIR: I acknowledge the receipt of your No. 541, of January 10, 1888, and inclose, for your information, a copy of a dispatch from Mr. Adamson, consul-general of the United States at Panama (to whom a copy of your dispatch was transmitted for report), No. 369, of the 21st ultimo,

saying that no Chinese laborers were ever conveyed by a French Government transport from Hanoi, in Tonquin or China, to Panama.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 304.]

Mr. Adamson to Mr. Rives.

[Extract.]

No. 369.] CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
Panama, March 21, 1888.

SIR: Referring to your No. 132, of March 6, marked "Confidential," which incloses a copy of a dispatch from the American minister in China in relation to the employment of Chinese coolies on the Panama Canal, I note your instructions to inform the Department whether "French Government transports" are conveying coolies from Tonquin to Panama.

In reply, I have to say that up to this time no "French Government transports" have brought any coolies from Tonquin or China to Panama.

I suspect there is an error in the statement, and that the shipment referred to is that of 565 Chinese laborers brought by the Pacific Mail steam-ship *City of Pekin* from Hong-Kong (say, in March, 1887) to San Francisco, where they were transferred to same company's steam-ship *Colima*, and 563 coolies landed here from *Colima* on the 3d day of May, 1887, two having died during the voyage.

I saw these men landed, and made a note of the fact at the time, and have confirmed my facts to-day by information received from the general agent of the Pacific Mail Steam-ship Company, who adds that the coolies in question were brought out by agents of one of the great contracting firms of the Canal Company (Bonafous & Co.), who wished to ship more, but the governor of Hong-Kong would not permit it.

I may also add that the prefect of Panama told me this morning that in three months after their arrival here not a single coolie remained on the works of the canal. They deserted in squads daily, it being impossible to identify and put them back on the works, and judging from personal observation and common report I believe they quickly became "washermen" and petty shop-keepers on "the line."

The ill-success of that experiment renders it improbable that any more Chinese coolies will be brought here; none are expected by Canal Company's director.

I am, etc.,

THOMAS ADAMSON.

No. 199.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 621.] LEGATION OF THE UNITED STATES,
Peking, April 13, 1888. (Received June 4.)

SIR: I have the honor to inclose herewith a translation of the answer of the Yamên to my dispatch, of which a copy was sent you in my dispatch No. 529, of December 20, 1887.

The Yamên sets out the report of the magistrate at Chinanfu to the following effect: Mr. Reid leased a lot; the price was agreed on and half was paid; the deed was not stamped; the literati and people presented a petition that the locality was objectionable on account of geomantic influences; the magistrate discussed the matter with Mr. Reid, and agreed to return him the money paid, and that the missionaries might take steps to acquire another site. November 28, the magistrate invited Mr. Reid to call on him, but he failed to do so. Between 9 and 11 o'clock Mr. Reid, with bedding under his arm, forced his way into the

inner court-yard of the house and ordered the occupant to vacate one of the rooms for him to take possession. The women and children were alarmed; Mr. Reid was pushed back and fell in the court. He was not assaulted. The magistrate has recovered the money to be returned to Mr. Reid, "who can engage a person to acquire another place."

On this report, the Yamên observes, after recapitulating the facts, that the owner of the house and the middleman have been released; that the missionaries can discuss with the local authorities the action to be taken to secure a suitable house at another place; that the governor of Shantung will be addressed to render assistance in devising a plan of action, but if property can not be acquired at once, the missionaries "then will only have to be forbearing and wait, and not show a hasty temper."

It is to be noted that this account suppresses mention of the preliminary interviews of the missionaries with the officials.

It is to be remarked on the whole case that there can be little, if any, doubt that Mr. Reid was injured by the mob. His own conduct was imprudent. While he denies that he went to the premises at the hour stated, between 9 and 11 p. m., he admits that he went thither at dusk, between 6 and 9. He admits also that he was notified that the trade was off. He knew the landlord was in jail. After an examination of the archives he admits that the governor did not promise Mr. Holcomb that the missionaries might acquire more land. Thus the actual basis of all his action falls. He still relies on the absolute right of missionaries to acquire land at their pleasure anywhere in China. An argument to that effect prepared by him, or a member of his mission, has lately appeared in the Daily News.

I notice, with satisfaction, that the Yamên does not raise the question of exclusion, and bases its reply on the assumed necessity that geomantic influences shall not be affected. This is one of the oldest and most potent superstitions in China, and can not, without ever recurring danger of a riot, be disregarded.

I have replied to the Yamên's communication in a dispatch of which a copy is herewith inclosed.

I deny most of the charges made against Mr. Reid, and reiterate my demand that the matter be settled by the procurement of other property in exchange for the lot purchased, and that full protection be accorded. I notify the Yamên that I await further developments before addressing them again on the subject.

On a review of the whole case, which is now before you, should you be of the opinion that I should insist on the right of the missionaries to have the lot purchased, I will do so. Or should you think proper to direct me to send a member of this legation to Chi-nan-fu to settle the whole matter, that will be done.

Either course is difficult. This Government is compelled to consult the wishes and superstitions of the people.

To send an official to settle the question is also objectionable. The theory of the missionaries in the interior is that they have cast their lot with the natives, and the churches organized by them are native churches. An appeal to official foreign aid destroys this sentiment.

With very marked success in China, but with some animadversions to which all officials are liable, I have usually left these local disturbances to be settled locally. Time and prudence have secured better results than diplomatic interference can secure. I interfered in Chunking because no consul was near there. I made representations lately to the Yamên of incipient riots and disturbances in the Chinese city in

Peking, because I am on the ground. But, even here, I have passed over, with the full concurrence of the missionaries, some trivial disturbances. I took up the Chi-nan-fu case because the place is remote from a consul. My countrymen had been imprudent, but I thought I might be able to do them some good.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 621.]

Foreign office to Mr. Denby.

APRIL 6, 1888.

YOUR EXCELLENCY: Some time ago the prince and ministers had the honor to receive a communication from your excellency relating the circumstances of a late riot at Chi-nan-fu in which an American missionary was injured; also certain troubles with reference to the purchase of property by the missionaries. Your excellency requested that instructions be issued to the provincial authorities that some remedy be devised for the wrongs and injuries inflicted, and proposed that four things be done, etc.

The Yamên immediately communicated with the said provincial authorities and at the same time sent your excellency an acknowledgment, all of which is a matter of record.

Upon the 22d March your excellency sent a note wherein you made inquiry as to whether anything had been decided upon, to which the Yamên made an acknowledgment. This is also a matter of record.

The Yamên has now received a communication from the governor of Shan-tung embodying a representation made to him by the intendant of Chi-nan-fu, based upon a report submitted by the magistrate of the Li Cheng district, which is as follows:

"The Rev. Gilbert Reid, an American missionary, leased, under a deed in perpetuity, certain house property, belonging to one Lin Mêng K'wei, situated on the street called San Huang Miao, outside the Tung Kuan. The matter was mutually arranged by the middleman, Chen Wan Nien, and it was agreed that the price should be 240 strings, each of 1,000 cash: half of the purchase-money to be paid in advance, the balance to be paid on taking possession of the premises. The deeds, however, had not been stamped, when the literati and people presented a petition in which it was alleged that the place was objectionable on account of interfering with the geomantic influence, and they were not at all willing that the missionaries should take possession. The magistrate thereupon discussed the matter verbally with Mr. Reid, and agreed to recover the money paid in advance by the missionaries and they could take steps to acquire another site. This proposition Mr. Reid agreed to. The money later was recovered. Upon the 28th of November, 1887, the magistrate invited Mr. Reid to call on him, but this he failed to do. In the evening of the same day at the third watch (11 p. m. to 1 a. m.) a missionary named Bergen and others reported that Mr. Reid had gone outside of the Tung Kuan for the purpose of urging the occupants to vacate the house, when he was assaulted.

"The magistrate at once made an investigation of the affair and it appeared that, between 9 and 11 o'clock of the same evening, Mr. Reid, with bedding under his arm, forced his way into the inner court yard of Lin-Mêng K'wei and ordered the occupants to vacate one of the rooms for him to take possession of first. The women and children, on seeing Mr. Reid, became alarmed and terrified. Mr. Reid was pushed back and he fell in the court, whereupon the neighbors advised him to return, and really he was not assaulted. The magistrate went in person to hold an examination. The missionary had marks of having been hurt, but they certainly were not wounds the result of having been assaulted. The magistrate, besides having recovered the money advanced to be returned to Mr. Reid, who can engage a person to acquire another place, and further (having the desire) to console and satisfy the missionaries, requests that his petition be presented to the higher authorities."

The Yamên would observe that, in regard to the house property leased under a deed in perpetuity, by the Rev. Gilbert Reid, from Lin Mêng K'wei, the literati and people oppose his occupying it. The owner had not moved out when, late in the evening, Mr. Reid forced his way into the inner court. The women and men thereupon pushed him back and he fell; moreover he was not assaulted, and there can be no need of making it the subject of an inquiry or further discussion. The money advanced has been recovered, and it is right that Mr. Reid should receive it back again. The owner of the house, as well as the middleman, have been released from their incarceration and are free from trouble. If the said missionary wishes to find at another

place a suitable house for a hospital, he can at any time with the local officials discuss the action to be taken. The Yamên will also address the governor of Shan-tung to render assistance in devising a plan of action, but if property can not be acquired at once the missionaries then will only have to be forbearing and wait and not show a hasty temper.

[Inclosure 2 in No. 621.]

Mr. Denby to the foreign office.

PEKING, *April* 16, 1888.

YOUR IMPERIAL HIGHNESS AND YOUR EXCELLENCIES:

I have the honor to acknowledge the receipt of your communication of April 6 instant, relating to the missionary troubles at Chi-nan-fu. I have the honor to offer the following observations:

You make no allusion to the statements made in my communication that all the acts of the missionaries, in connection with the attempted purchase of the house in question, were communicated to the local authorities and were apparently approved by them. The whole opposition to the purchase seems to have originated with Lin Ching Ao. This man does not live near the property. It lies in the southeast suburb and he lives in the city. The neighbors had all acquiesced in the purchase. The missionaries were always ready and willing to consent to an exchange of property, but no steps whatever were taken by the officials to that end. Mr. Reid did not accept the invitation of the magistrate to visit him on the 28th November last, for the reason that he had already reported the case to the Taotai and had received no reply to his communication. Mr. Reid asserts that he occupied the house by an arrangement with the family. He informed the Taotai that he intended to take possession, and asked him to order the magistrate to protect and help him.

The statement now made that the missionaries may search for other property has been made for several years. But whenever a piece of property is selected, the objection is made that it interferes with the geomantic influence. As the missionaries are unable to determine what property interferes with the geomantic influence, it should be the duty of the local officials to settle that question before the purchase is made. It is to be noted that the report of the local magistrate, while it denies that Mr. Reid was assaulted, admits that "the missionary had marks of having been hurt." As to how to those marks were inflicted is a subject of dispute.

Mr. Reid's reputation is good, and it can not be believed that he voluntarily inflicted injuries on himself. It is not very material whether he was knocked down and so injured or whether he was stricken with some implement.

You have before you his original statement, to which he adheres. The plain facts remain that an American citizen has been injured without any efforts being made to protect him, or any satisfaction being afforded. There is reason to believe also, that unless care is taken there will be other riots and injuries. Your highness and your excellencies were kind enough to say that "if the said missionary wishes to find at another place a suitable house for a hospital he can, at any time, with the local authorities, discuss the action to be taken. The Yamên will also address the governor of Shantung to render assistance in devising a plan of action."

I have advised Mr. Reid to return to Chi-nan-fu, and to make personal efforts, by conference with the local authorities, to procure, under the instructions of the Yamên, a settlement of these troubles.

As there is no representative of the United States convenient I would take it as a favor if you would issue directions that the Taotai and local magistrate confer freely with Mr. Reid. It is desirable, also, I think, that the local authorities should take the initiative in selecting a piece of land to be offered to the missionaries in exchange for the house purchased. A direction from you to this end would render it certain that after a new purchase no difficulty would arise on the ground of Feng Shui.

I trust also that under your wise and kind direction stringent steps will be taken to prevent further disorder. Some care in this regard is necessary, as the examinations are to be held at Chi-nan-fu in August next, and students the world over are liable to be disorderly at times.

I shall await further developments before addressing you again on this subject.

I avail, etc.,

CHARLES DENBY.

No. 200.

Mr. Denby to Mr. Bayard.

No. 628.] LEGATION OF THE UNITED STATES,
Peking, April 17, 1888. (Received June 4.)

SIR: I have the honor to state that the vice-consul of the United States at New-Chwang has put this question to me:

To what pains and penalties are Americans liable if proved to be engaged in the smuggling of fire-arms and contraband of war into China?

I have answered that no nation that I know of punishes with personal punishment its own citizens for breaches of the revenue laws of other countries; and that no statute defining and punishing the offense of smuggling into China, except the opium statute, exists in the United States. I have advised him that should such case arise he would have to exercise his judgment, and that while deportation is unknown to our laws, it is probable that the guilty person could be induced voluntarily to go away never to return. Confiscation of the smuggled goods is the only penalty I know of.

In the event that a Chinese subject, who is employed in an American ship, is caught on shore in China in the act of smuggling, he should be left to be handled by his own Government, without interference by the United States consul.

A different question would arise if the arrest were attempted to be made on board of an American ship.

Such a case should be immediately reported to the legation.

I submit these views to your better judgment.

I have, etc.,

CHARLES DENBY.

No. 201.

Mr. Bayard to Mr. Denby.

No. 307.] DEPARTMENT OF STATE,
Washington, April 23, 1888.

SIR: I have received your No. 574, of February 20, 1888, concerning the discussion with the Yamên in reference to New Year's calls thereon by the diplomatic body at Peking.

In reply to the last paragraph of your dispatch, touching the President's reception and the interchange of official calls between the Secretary of State and the members of the various legations here, I inclose three copies of the current diplomatic list. The precedence of the Chinese secretaries over "translators and attaches" therein indicated follows the official list communicated to this Department by the Chinese minister. In practice no distinction is here made, the translators being accorded equal treatment with the secretaries. At the President's reception on New Year's Day the Chinese minister attends, with such suite as he deems proper, and all are presented by him to the President. In the social intercourse of the Chinese minister with the Cabinet officers, as for example at their receptions at their dwellings, the minister is generally accompanied by one or sometimes both of the translators, and their cards, when left on the Secretary of State, are returned the same as the secretaries' cards.

It is much to be regretted that these minute questions, almost incomprehensible to us, should obstruct the free and friendly official intercourse this Government always desires to see maintained between its representatives abroad and the officers of the Government to which they are accredited, and with whom they have to transact the public business.

I am, sir, etc.,

T. F. BAYARD.

No. 202.

Mr. Bayard to Mr. Denby.

No. 308.] DEPARTMENT OF STATE,
Washington, April 25, 1888.

SIR: I desire to acknowledge receipt of your dispatch No. 585, of the 7th ultimo, relative to the complaint of the Government of China in the matter of the smuggling of fire-arms at New-Chwang, and to approve your action in promising the aid of your official service to prevent Americans from engaging in the unlawful practice.

I am, etc.,

T. F. BAYARD.

No. 203.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 633.] LEGATION OF THE UNITED STATES,
Peking, April 27, 1888. (Received June 4.)

SIR: I had the honor, in my dispatch No. 593 of March 19, to report that the lekin question in Formosa was in train of satisfactory settlement. Subsequently the Tsung-li Yamên repudiated the interpretation placed on their alleged agreement with the foreign ministers. The Yamên has finally determined to insist on the collection of lekin at a point between Taiwanfu and Anping.

This construction of the treaties can not be submitted to. Taiwanfu is the treaty port. It is about 3 miles from Anping. Anping is to all intents and purposes the port of the treaty port. Ships can not go to Taiwanfu. If lekin be collected on goods sent from Taiwanfu to Anping for shipment, Taiwanfu ceases to be a treaty port.

While it is conceded that the Chinese authorities have the right to collect lekin, it is insisted that they can not collect it at a treaty port, nor while goods are in transit from a treaty port to a neighboring port of shipment. Such construction would authorize lekin to be collected on goods in the hands of foreigners between Shanghai and Woosung, between Canton and Whampoa, between Tientsin and Taku, between Foochow and the Pagoda Anchorage, between the island of Kulangsu and the town of Amoy; in fact, between many cities and the actual place of shipment.

While it is agreed that, owing to the peculiar geographical situation of Taiwanfu, it will be inconvenient for the Chinese authorities to col-

lect lekin elsewhere than at the lekin station, Si Lei, half-way between Taiwanfu and Anping, still it is claimed with confidence that foreign merchants have no concern with this inconvenience. It is the business of the local authorities to collect this internal tax the best they can, but they can not violate the treaties, which prohibit its collection at a treaty port. When goods once reach Taiwanfu and are bought by a foreign merchant the right to collect lekin ceases. If afterwards, while the goods are being transported to the actual place of shipment—only 3 miles away—lekin may be collected, evidently the treaty port is to this extent abolished.

Under these conditions it was unanimously agreed by the foreign ministers that communications of which copies are herewith inclosed should be sent as identic notes to the Yamên. The Yamên is therein notified that instructions have been sent to the various consuls to protest against the levy of lekin at Taiwanfu or at any point between that place and Anping, and that reclamations will be made for any taxes illegally collected.

I shall report more *in extenso* on this question after my visit to Formosa.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 633.]

Foreign Ministers to Foreign Office.

PEKING, *April* 28, 1888.

YOUR HIGHNESS: At the meeting which took place on the 25th instant between the representatives of Germany, Great Britain, and the French Republic, on the one side and some of the ministers of the Tsung-li Yamên on the other, their excellencies the Chinese ministers contended that under the treaty of Nanking only the ports were opened and not the towns, and that therefore Chinese produce bought at the towns mentioned in that and other treaties was subject to the payment of inland dues on being brought to the port for shipment.

The terms used in Article II of the treaty of Nanking to designate the places opened for foreign trade are *cities and towns*, and no discrimination is made with regard to ports.

The Anglo-Chinese treaty of 1858 uses in Article XI the terms of cities and ports for New-chwang, Tang chow, Tainan Chao chow, and Kuing chow; the Franco-Chinese treaty of the same year uses in Article VI indeed only the term of *ports*, but even if there could be any doubt as to the signification of this expression it is in Article VII. explained by the use of the words *ports et villes* at which French merchants are given the right to trade; in Article VII of the Franco-Chinese treaty of 1860 the town and port (la ville et le port) of Tientsin are expressly mentioned as opened to French trade under the same conditions as all the other towns and ports mentioned in the treaties; the American-Chinese treaty of 1858 uses the term of *ports and cities* at which American citizens are allowed to trade; the German-Chinese treaty of 1861 uses the term of *ports et villes* at which German subjects can freely trade, and the same expression is used in the Belgian-Chinese treaty of 1865, Article XI. In the other treaties the expressions *ports and towns* are used alternatively, so that no doubt can exist that everywhere the expressions used are intended to designate the administrative unity usually called a town, and not a part of it, which might be called the harbor or port of the town.

In all the treaties above mentioned concluded since 1858 the foreign text is declared to be the one which in case of difference of opinion is to be held as the correct one.

The undersigned representatives of the German Empire, the United States, Japan, Great Britain, Spain, Russia, the French Republic, and Belgium, must therefore protest most strongly against any attempt on the part of the members of the Tsung-li Yamên or other high Chinese officials to reduce the right of foreign merchants to reside and trade at the towns open under treaty to the one of residing and trading in

that port of the towns mentioned in the treaties which may have been set aside for shipping purposes.

No foreign settlements having existed at the time of the conclusion of the treaties, it is self-evident that they can not have been meant by the use of the terms towns or ports. The further attempt of the members of the Tsung-li Yamên, made at the conference above referred to, to deduce from section 3, Article I, of the Chefoo convention that, because in that arrangement it was proposed that only within the foreign concessions no lekin was to be levied on foreign imports, lekin might be levied on Chinese produce without the foreign concessions at the places open to foreign trade under the treaties, can hardly be looked upon as a serious one, as section 3 of the Chefoo convention has as yet been neither ratified by Her Britannic Majesty's Government nor approved by any of the governments of the other treaty powers.

The undersigned avail, etc.,

M. VON BRANDT,
German Minister.

CHARLES DENBY,
United States Minister.

SHIODA SABURO,
Japanese Minister.

JOHN WALSHAM,
British Minister.

TIBURCIO RODRIGUEZ Y MUNOZ,
Spanish Minister.

A. COUMANY,
Russian Minister.

G. LEMAIRE,
French Minister.

CH. MICHEL,
Chargé d'Affaires, for Belgium.

[Inclosure 2 in No. 633.]

Foreign Ministers to Foreign Office.

PEKIN, *April* 28, 1888.

The undersigned representatives of the German Empire, the United States, Japan, Great Britain, Spain, Russia, the French Republic, and Belgium, have the honor to inform His Highness Prince Ch 'ing and their excellencies the ministers of the Tsung-li Yamên that their long and patient endeavors to obtain from the Tsung-li Yamên a prohibition of the illegal practice arbitrarily introduced by the provincial authorities of Formosa with regard to the levy of lekin, or other inland dues within the town of Taiwanfu opened to commerce by the treaty of 1858 and subsequent ones, or between Tainanfu and Anping, as well as with regard to the trade in camphor regulated by the joint arrangement of 1869, having proved fruitless, they have sent the following instructions to Taiwanfu to serve as guidance to their respective officials and merchants established there.

In view of the attempts made by the provincial authorities at Tainan Fu, to levy lekin or other inland dues on Chinese produce, the property of foreign merchants, and purchased by them within the town of Taiwanfu either within that place, or during the transport of the said produce from Taiwanfu, to the place of shipping at Anping, you are hereby instructed to protest again against such arbitrary and illegal proceedings, and to inform the Chinese authorities that they will be held responsible for any loss or losses arising to foreign merchants from the interference of the Chinese authorities in the manner above stated. You will at the same time inform the foreign merchants that under the treaties they are not bound to pay lekin or transit duty on Chinese produce their property bought at Taiwanfu, either while at that place or during the transport from there to the place of shipping at Anping, and that any just claims for damages arising from the illegal and arbitrary interference of the Chinese authorities will be immediately presented to the Chinese Government.

"With regard to the re-establishment of the camphor monopoly in Formosa you will inform the Chinese authorities and foreign merchants that, the joint agreement of 1869 abolishing the camphor monopoly and regulating the manner in which the trade in camphor was to be carried on by foreigners being still in force, any interference with the legitimate trade of foreign merchants in this community would authorize claim for compensation, which will be immediately presented to the Chinese Government.

"You will also inform the local authorities that should the interests of foreign merchants suffer, directly or indirectly, through the illegal interference by the Chinese authorities, the Chinese Government will be held responsible for such losses."

M. VON BRANDT, *German Minister.*
CHARLES DENBY, *United States Minister.*
SHIODA SABURO, *Japanese Minister.*
JOHN WALSHAM, *British Minister.*
TIBURCIO RODRIQUEZ Y MUNOZ, *Spanish Minister.*
A. COUMANY, *Russian Minister.*
G. LEMAIRE, *French Minister.*
CH. MICHEL, *Chargé d'Affaires for Belgium.*

No. 204.

Mr. Denby to Mr. Bayard.

No. 634.] LEGATION OF THE UNITED STATES,
Peking, April 27, 1888. (Received June 4.)

SIR: I had the honor to report, in my dispatch No. 592 of March 19, that measures for the abolition of the camphor monopoly in Formosa were in satisfactory train. Subsequently the Tsung-li-Yamên repudiated the construction placed on its alleged agreement by the foreign ministers. The Yamên now insists that the monopoly in camphor shall remain in force as at present.

By reference to dispatch No. 39, of date June 15, 1869, of Mr. J. Ross Browne to the honorable Secretary of State, and inclosure B therein, you will see that certain rules governing the camphor trade were adopted March 17, 1869. These rules were in the nature of an agreement between the Chinese Government and the foreign powers. Under the circumstances the foreign ministers have transmitted to the Yamên a communication, of which a copy is appended to my dispatch No. 633 of April 27, 1888.

The ministers therein insist that these rules are still in force and inform the Yamên that the consuls have been instructed to claim compensation for all injuries arising from any breach thereof.

I have, etc.,

CHARLES DENBY.

No. 205.

Mr. Denby to Mr. Bayard.

No. 639.] LEGATION OF THE UNITED STATES,
Peking, May 5, 1888. (Received June 14.)

SIR: In my dispatch No. 574, of date the 20th of February last, I dwelt at some length on the question of etiquette to be observed in the matter of exchange of calls on foreign and Chinese New Year between the officials of the foreign office and the secretaries, attachés, and interpreters of the various legations, and informed you that the diplomatic representatives would press the matter until a proper and satisfactory arrangement, consistent with dignity, had been effected.

I now have the honor to inform you that the question has been settled in a manner that can not be other than satisfactory to all concerned.

The proposal of the prince and ministers, which forms an inclosure, has received the approval of my colleagues and myself.

I trust that my action in the premises will meet with your approval.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 639.]

Proposal from Tsung-li Yamên on the subject of the exchange of cards on Chinese and foreign New Year.

On Chinese New Year the foreign representatives residing at Peking will send cards: (1) To the prince and ministers; (2) to each one of the secretaries of the Yamên (Tsung pans), whose names will be given; (3) to the seven departments of the Yamên—to each department one card.

The secretaries, attachés, and interpreters will send their cards in the same manner.

On foreign New Year the prince and the ministers will send their cards: (1) To the foreign representatives, (2) to every one of the secretaries, attachés, and interpreters, whose names will be given to them.

The Tsung pans will send their cards in the same manner.

The officials of the seven departments will send one collective card for each of the departments to the foreign representatives, secretaries, attachés, and interpreters.

No. 206.

Mr. Bayard to Mr. Denby.

No. 315.] DEPARTMENT OF STATE,
Washington, May 9, 1888.

SIR: I desire to acknowledge receipt of your dispatch No. 595 of March 19, 1888, and to say that the Department has read with interest your very thorough discussion of the subject of land tenure in China. The question is one of much importance and the Department will in its future consideration of the subject, derive great assistance from the exposition of the methods of transfer of title to land in China which the dispatch contains.

I am, etc.,

T. F. BAYARD.

No. 207.

Mr. Denby to Mr. Bayard.

No. 640.] LEGATION OF THE UNITED STATES,
Peking, May 11, 1888. (Received July 21.)

SIR: In the year 1881 an institution called the Imperial Naval College was established at Tientsin by the Viceroy Li Hung Chang, for the purpose of preparing Chinese cadets for the navy of the Imperial Government after the system prevailing in Western countries.

The college has two departments of sixty students each, executive and engineering, the former under the direction of Mr. Yen Tsung Kwang, a graduate of the Foochow Arsenal and of the Royal College at Greenwich, England, and the latter under two English professors,

also of the Royal College. I learn that in its inception, development, and present successful position the college owes much to Mr. Yen.

The students of the college are selected from all parts of the Empire. After an examination in Chinese literature they are admitted for a probationary period and set on to study English. If they show signs of success in acquiring this language, they are retained for a period of four years in the executive school and much longer in the engineering. In the executive school solid geometry and geometrical conics, trigonometry, navigation, natural astronomy, theoretical algebra, statics, etc., are taught, while in the engineering the course is in studies such as are usually taken in technical colleges.

A torpedo department has been successfully inaugurated by one of the English professors, who has filled up in a very complete manner a workshop with every requisite for instruction in this *sine qua non* of modern naval warfare.

Examinations are held quarterly, and I understand the results have proved more than creditable to the students. It is another proof of the extreme quickness with which the supple Chinese intellect masters difficult problems.

At a recent examination the average of marks gained by the pupils, many of whom had been but a short time in the school, was about 50 per cent., a result which reflects the utmost honor on the Chinese and English professors. The Chinese pupils, I learn, readily master the western mathematical methods, as is shown in most of the foreign schools in China. But the fact should not be lost sight of, that the Chinese *savants* have perfect mathematical methods of their own and for hundreds of years have been able to calculate eclipses, etc. One feature of the establishment which should be remedied is the time spent in elementary education. If the Government should establish a sort of preparatory school where English mathematics and elementary science could be acquired, without wasting, as it were, the power of high-class specialists, it would be a great advantage.

About three years are spent in teaching the elements of mathematics and science by men who could with much more profit to the public service be engaged in special teaching.

However, in making this observation, I do not wish to be regarded in the light of a critic.

Not unlike the system in our own Naval Academy, the students are entirely maintained at Government expense and are further in receipt of adequate pay.

The Chinese Government will no doubt foster this and all similar institutions with the utmost care. From this school will come the men to whom must be confided the reorganized navy of China.

I inclose copy of a proclamation, issued by the manager of the college, inviting candidates to compete at the entrance examinations.

I have, etc.,

CHARLES DENBY.

[Enclosure in No. 640.—Translation.]

Proclamation concerning entrance to Naval College, published in the Shih Pao, April 30, 1888.

A proclamation from Sin, Expectant Taotai of Chihli and manager of the imperial naval college at Tientsin, in the matter of inviting candidates to compete at the entrance examination:

Be it known that in each of the engineering and executive departments of the naval college at Tientsin there are a prescribed number of sixty candidates who are

being trained for service in Imperial navy. Since the college was established in 1881, a class of thirty cadets have graduated, and they have been appointed on board our men-of-war, or have been sent abroad to study the tactics of naval warfare. They are all receiving ample salaries and substantial promotions, being selected as the country's bulwarks against the insults of foreign foes.

At present a class of thirty-nine students have just completed their studies, and will be placed on board training-ships some time during the fourth moon.

Exclusive of those who have already been examined and selected to fill the vacancies made by the graduating class, there yet remain twenty and more candidates to be selected.

Therefore, I, the manager, promulgate this proclamation to invite candidates to compete at the examinations, and the scholars and people of the district of Tientsin are hereby informed that should any of them belonging to respectable families have sons or brothers who are under eighteen years of age, having strong constitutions and robust intellects and who can write essays or other literary productions, desire to be examined, they must first submit to the college authorities a statement of the candidate's age, his place of birth, and his antecedents; and then, upon their arrival at the college, he will be examined. And those candidates whose family genealogical records are untainted, and who possess requisite literary ability, will be selected fairly by the manager, who will show no respect of persons. You must not seek the indirect assistance of the college faculty, thereby hoping to receive admission on any ground other than that of personal merit. If candidates are unable to compose literary essays, it will be unnecessary for them to undertake the trouble of coming from afar. Candidates who are selected will first have their names enrolled and wait for further announcements by the college. When the day arrives for them to enter upon their studies they will proceed to the college, accompanied by one of their relations, who will draw up the necessary papers of agreement. After that they will enter upon their studies, and at the expiration of three months' probation, those who are finally selected will be given a monthly allowance of 4 taels each. Should any afterwards distinguish themselves by exceptional scholarship, awards and promotions will be accorded to them.

Let the people be inspired with ambition and be not negligent of their best interests.

No. 208.

Mr. Denby to Mr. Bayard.

No. 644.] LEGATION OF THE UNITED STATES,
Peking, May 21, 1888. (Received July 21.)

SIR: I have learned from a dispatch received from Mr. Consul Wingate, at Foochow, that on hearing from Consul-General Kennedy of the wreck of the American steamer *San Pablo*, near the island of Haitan, on the coast of Fukien, he applied to Mr. Chang, a Taotai at Foochow, and the imperial commissioner of the Foochow arsenal, for a gun-boat to be sent to the wreck to render any needed assistance.

This request was complied with, but it is claimed that the local authorities were not efficient in protecting the property from looters. I understand that a claim will be presented for damages, which will receive proper attention. The *San Pablo* became a total wreck. There was considerable looting by fishermen and the residue was sold at public auction and brought something over $400.

I have, etc.,

CHARLES DENBY.

No. 209.

Mr. Denby to Mr. Bayard.

No. 646.] LEGATION OF THE UNITED STATES,
Peking, May 26, 1888. (Received July 21.)

SIR: I have the honor to inclose, for your information, a newspaper copy of a letter presented by the Hong-Kong chamber of commerce to the Hong-Kong Government; also one addressed to the committee of the chamber of commerce by the leading Chinese merchants of the colony, both having relation to the recent action of the Australian authorities in refusing to allow Chinese passengers to land at Australian ports.

It appears that 270 Chinese laborers who took passage per steamer *Afgan* at Hong-Kong on the 27th of March last were refused permission to land at Melbourne. Other steamers from Hong-Kong to Australia, whose departures were subsequent to the *Afgan*, it is feared will meet the same fate.

The China press is full of bitter attacks against the Australian colonies and views the stoppage of emigration as not only arbitrary but high-handed with a vengeance, as no notice, it is alleged, was given by the Australian authorities of the intended exclusion of Chinese laborers; and that very heavy losses will revert to the owners and charterers of vessels which have been specially constructed for the trade.

On the other hand, I understand that the Australian Government justify the action taken under the Chinese emigration statute of 1865 and Chinese act of 1881.

The following is a copy of a telegram, dated Melbourne, the 8th of May, addressed by the governor of Victoria to the governor of Hong-Kong, as published in the Hong-Kong papers:

Referring to your telegram, 4th May, my Government are acting under Chinese immigrant statute, 1865, and Chinese act, 1881. Chinese immigrants, by *Afgan* to Victoria, naturalization papers presented by Chinese immigrants claiming to be naturalized British subjects have nearly in all cases been found to have been issued to other than the ostensible holders, attempting consequently fraudulent evasion of poll-tax, the consequence being Government strictly enforcing acts, under order in council passed under public health acts, rendered vessels from Hong-Kong, Singapore, etc., liable to detention by health officer.

Whatever may be said pro and con in the matter of the action taken in the *Afgan* case, there is one thing almost certain, and that is, there has been a strong anti-Chinese feeling prevailing in Australia for a considerable time, and it may reasonably be conjectured that the adoption of measures for the restriction of Chinese immigration would be favorably received by a large class of colonists, principally the workingmen.

As an index of the public sentiment on this question, I need only refer to the account of a public meeting held at Sydney on the 27th March last, which forms an inclosure, No. 2.

As further evidence that the colonists are anxious to reduce to as small a degree as possible the influx of Chinese laborers, the following telegram, taken from an Australian paper, shows. I give it in full:

SYDNEY, *April* 10.

The New South Wales Government has dispatched a reply to the secretary of state for the colonies *re* the Chinese protest, couched in very clear and forcible language. It commences by asking the British Government why, if America prohibits Chinese immigration, the colonies should not do so for the same reason. As in America, the working classes of Australia are directly opposed to them; there can be no sympathy or peace between the races, neither any interchange of ideas, of religion, or citizenship,

intermarriage, or social communication. It asserts that the Australians are determined to preserve the British type of races, and that if protection can not be afforded as sought Australia must act from the force of public opinion. The reading of the above dispatch in the Sydney house of assembly elicited great cheers, which were renewed when Sir H. Parks replied that if, unfortunately, the reply of the imperial authorities was unfavorable it would then unquestionably be the Government's duty, without loss of a single day, to take steps to protect the colony, once and forever, from the influx of Chinese.

It is reported that some of the leading Chinese in Australia have requested that the matter be brought under the notice of the viceroy at Canton, and he be urged to take diplomatic action, but I have not, as yet, been able to ascertain that any such action has been taken by that officer.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 646.]

THE HONG-KONG CHAMBER OF COMMERCE AND CHINESE EXCLUSION IN AUSTRALIA.

The following letter has been addressed by the chamber of commerce to the Government:

HONG-KONG GENERAL CHAMBER OF COMMERCE,
Hong-Kong, May 7, 1888.

SIR: By desire of the committee of the chamber of commerce, I have the honor to bring to the immediate notice of his excellency the governor the following resolution, which was passed unanimously at a special meeting of the committee held today to consider the question of the refusal of the Australian colonies to admit Chinese subjects into their ports:

"*Resolved*, That in the opinion of the committee the action of the Australian Governments prohibiting the landing of Chinese in the Australian ports, intelligence of which has been received by telegraph, is a subject demanding the very grave consideration of Her Majesty's Government—

"(1) Because it is not consonant with British methods of government, of justice, that tradal regulations should be instantly suspended without ample notice, to permit of those interested conforming therewith, for the action of these Australian colonies threatens to involve those engaged in the trades affected by the new regulations with very serious loss, for which apparently no compensation is offered. Merchants depending upon the good faith of the Australian Governments, having complied with regulations in force when their engagements were made, are, at a moment's notice, without warning of any kind, subjected to limitations with which they are powerless to comply.

"(2) That the refusal to permit the landing of Chinese in the Australian colonies is fraught with most serious consequences to British interests in China.

"Perhaps at this juncture no prominent notice may be taken by the Chinese Government of the restrictions imposed upon the rights of its subjects, conceded under treaties with Great Britain; still the committee can not but deplore the dangerous precedent that has been set, and which will doubtless very seriously affect the promotion of England's friendly intercourse with China in the near future."

I am also requested to forward to you, for the information of his excellency, copy of a letter dated to-day and addressed to the committee by the leading Chinese merchants of this colony, bearing upon the question. The names of the signatories are in the possession of the chamber and can be furnished to the Government if required.

I have, etc.,

P. RYRIE,
Chairman.

Hon. F. STEWART, LL. D.,
Colonial Secretary.

HONG-KONG, *May 7*, 1888.

GENTLEMEN: We have received a telegram from Australia informing us that the Australian authorities refused permission to Chinese passengers to land under any circumstances, and that the passengers by several steamers recently arrived there from Hong-Kong were turned back unceremoniously and without any previous warning. We are quite at a loss to understand this most unjustifiable action of the Aus-

tralian Government, especially after having had long commercial intercourse with our port and other ports of China. We can not but view the present action of the Australian Government as a direct infringement of all international law and usages, and a violation of treaty rights between civilized nations.

The passengers who are subject to this exclusive policy embarked from the colony without the slightest previous knowledge or notice, and their being turned back in this arbitrary manner will, in our opinion, injure the trade of this colony and entail much hardship and loss both to the passengers themselves and local ship-owners and mercantile firms.

We, therefore, having met together, in long deliberation, resolve to approach you and request your kind assistance in getting a satisfactory settlement of this difficulty and to obtain right and justice from the Australian Government, and, if necessary, to move his excellency the governor of Hong-Kong to communicate by cable with the Government in question with a view to having the restriction removed.

We are, etc.,

(Here follow signatures.)

The COMMITTEE OF THE HONG-KONG GENERAL CHAMBER OF COMMERCE.

[Inclosure 2 in No. 646.]

Account of public meeting held at Sydney, Australia, March 27, 1888.

SYDNEY, *March* 27.

A large and enthusiastic meeting was held to-night, under the auspices of the Anti-Chinese League, in the Sidney town-hall, to protest against the influx of Chinese into Australia and the present legislation regarding Chinese. The mayor presided, and amongst the speakers of the legislative assembly, Messrs. Dibbs, Fletcher, Melville, and Schey, M. P's, and Mr. Talbot, president of the league. These following resolutions were carried without a single dissentient:

(1) That the almost unrestricted influx of Chinese into Australia will, if continued, threaten our social and political welfare, and that the time has arrived for the imposition of substantial and effective restrictions on their further introduction.

(2) That this meeting of citizens desires to express its strong objection to any action on the part of the Government of China in giving assistance or encouragement to Chinese immigration into Australasia, and calls upon the home government to maintain the right of the Australian colonies to frame such laws as they may consider necessary to insure in this continent a preponderance of the British race.

A deputation was appointed to present the resolutions to the governor.

No. 210.

Mr. Denby to Mr. Bayard.

No. 647.] LEGATION OF THE UNITED STATES,
Peking, June 1, 1888. (Received July 21.)

SIR: I am sending the Department, under separate cover, the Customs Gazette, embracing the quarter ending the 31st of March, 1888.

From the figures presented the total collections at the treaty ports for the perio dunder review have been: 4,349,668, 4.8.2, Haikuan taels, against 3,106,872, 6.1.2, in 1887; or say, United States gold, $5,219,602 and $3,728,247, respectively.

Of the principal American imports the showing is not discouraging, though there appears a decrease in kerosene oil at Shanghai, the chief place of import, for the quarter, of 1,159,075 gallons, as against the same period last year; still this should not be taken as an intimation of a falling off in the consumption, as I learn that the stock on hand at the beginning of the year amounted to over 5,000,000 gallons.

The total importation of all kinds of American piece goods at the same port was 427,610 pieces, as against 274,590 pieces for the same quarter of 1887, showing an increase of 153,020 pieces.

From the statistics of the American import trade with Corea an improvement is noticeable. Kerosene shows an increase for the quarter of 26,920 gallons as compared with the importation for same period of 1887, and in piece goods the excess is 900 pieces.

I have, etc.,

CHARLES DENBY.

No. 211.

Mr. Bayard to Mr. Denby.

[Extract.]

No. 324.] DEPARTMENT OF STATE,
Washington, June 6, 1888.

SIR: I have received your dispatch No. 618, of April 7 last, in which you report that the question of the audience of foreign ministers with the Emperor is again agitated in view of His Majesty's contemplated sole assumption of imperial rule on May 20th, ultimo, and ask instructions touching a declaration on the part of this Government, with others, that if the Emperor should refuse to receive the foreign representatives at Peking, the ministers of China will in like manner be refused audience by the heads of the governments to whom they are accredited.

Your views as to the inexpediency of announcing, in advance of a general agreement, a rule of action which would necessarily be binding upon this Government and so assume the character of an ultimatum, are entirely approved, and there seems to be no good reason to instruct you to commit this Government to any particular course on this question.

While, unquestionably, nothing that savors of inequality in the relative positions of sovereignty of this Government and that of China is to be recognized or admitted, nevertheless the inherent dissimilarity in the civilizations and customs of the two countries will almost inevitably render precise similarity or even equivalence in ceremonial impracticable if not impossible, and in these differences there need be no suggestion or implication of discourtesy or lack of respect on one side or the other.

We therefore can not expect, nor do we desire, to supplant and replace the traditions, manners, and customs of other nations by our own and against their will, but should endeavor to allow the spirit and intent of mutual amity and respect to find expression in such ways as may be most agreeable to those foreigners with whom we are thrown in intercourse, and this to such a degree as shall not invade or impair the essentials of our own self-regulated decorum.

If any proposed ceremonial in China should be in violation of our canons of propriety it should be so stated, and the ceremony altered or disallowed; but if the Government of China prefers to make and receive its responsible communications through the medium of certain officials only, and under certain established and traditionary forms, I do not consider that the United States ought to demur because the form or the agency is dissimilar from those employed by us.

The pageantries of royalty are unknown in the United States, but they are an important feature in some other governments, and unless they are inconsistent with a proper respect to our sovereignty as represented by our minister, I should not be disposed to object to them.

The mysterious seclusion of the head of the Chinese Empire may be used by that nation as a political force in their system and esteemed by his subjects as part of that "divinity" that "doth hedge a king," and to be successful in conveying an impression of power.

So far as the subject falls under the purview of existing treaty engagements, it would certainly seem that reciprocity is to prevail in the matter of diplomatic representation, and it is further deducible that the measure of such reciprocal treatment shall be the usage of the western nations.

Article V of our treaty of June 18, 1858, with China, only gave to the minister of the United States in that country the right of stated visits to the Imperial capital and conference there "with a member of the privy council, or any other officer of equal rank deputed for that purpose, on matters of common interest and advantage."

There is herein no stipulation or even suggestion of diplomatic audience of the American minister with the head of the Chinese Empire. But article VI of the same treaty provides that:

> If at any time His Majesty, the Emperor of China, shall, by treaty voluntarily made, or for any other reason, permit the representative of any friendly nation to reside at his capital for a long or short time, then without any further consultation or express permission, the representative of the United States in China shall have the same privilege.

Within eight days from the signature of our treaty as aforesaid, a treaty was signed at Tientsin, on June 26, 1858, between Great Britain and China, by the third article of which provision is made for the permanent residence of a British minister at the capital of the Empire. In the first paragraph of that article, it is said of such British minister that:

> He shall not be called upon to perform any ceremony derogatory to him as representing the sovereign of an independent nation on a footing of equality with that of China. On the other hand, he shall use the same forms of ceremony and respect to His Majesty the Emperor as are employed by the ambassadors, ministers, or diplomatic agents of Her Majesty towards the sovereigns of independent and equal European nations.

It is to be remarked that the form of etiquette and ceremonial thereby stipulated is guarantied to the Emperor of China as his right, and the stipulation does not create a right *e converso* in the British minister in China to receive in return the same ceremonial observances.

What stipulation as to the form and measure of ceremonial observance to which the British minister in China was entitled under the Anglo-Chinese treaty of 1858 is found in the fourth article, which, after defining certain personal rights of travel, security of correspondence, and the like, concludes as follows:

> And generally, he shall enjoy the same privileges as are accorded to officers of the same rank by the usage and consent of western nations.

The privileges of residence and representation so stipulated in favor of the British minister in China forthwith inured to the minister of the United States in virtue of the above-cited sixth article of our treaty of 1858, and the subsequent treaties of China with other nations have added no substantial modifications in this regard.

Another circumstance to be remarked is that nowhere in the treaties of China with the United States is the privilege of imperial diplomatic representation in the United States expressly stipulated. That, however, is a right of independent nations, necessarily incidental to their friendly intercourse, and may be assumed to exist without express convention. It is, in fact, so assumed in the fourth article of our treaty of

November 17, 1880, where "the Chinese minister at Washington" is mentioned incidentally and as a matter of course. This common recognition of an inherent right of independent and equal sovereignty is, perhaps, more suitable than a specific permission for the reciprocal sending of diplomatic agents.

If China confined her diplomatic intercourse with other States to receiving their envoys, and sent to foreign countries in return none but consular representatives, whose functions are properly definable by treaty, the treatment of such envoys at Peking might, within due limits of international respect, be governed wholly by Chinese usage or prescription, but by sending diplomatic agents, as well as receiving them, a reciprocity and mutuality of treatment in conformity with the modern usage of nations is necessarily implied. It is, as you suggest, very likely that this consideration of reciprocal usage and ceremonial as essential to the intercourse of equal and independent powers would largely influence the Government of the United States in dealing with the issue should it be raised at Peking by a formal denial of audience.

Strictly speaking, however, a minister plenipotentiary (except for the presentation of his letters of credence or recall, and then only by custom and usage), has no *right* of audience with the head of the State.

That right rests upon the fiction of personal representation of the sovereign, which pertains to the ambassadorial capacity, and neither China nor the United States sends or receives "ambassadors" *eo nomine*. While the Chinese minister in Washington has no more right to demand personal audience of the President, for any purpose, than the minister of the United States at Peking has to demand similar audience of the Emperor, it is unlikely that any discrimination would ever be made against the Chinese minister in Washington in respect of ceremonies shared by the whole diplomatic body. It might, for example, be deemed invidious to exclude him from the President's receptions, and the like, to which all the foreign representatives are customarily invited. But no such idea of discrimination could be involved in requiring the Chinese minister in the United States to present his letters of credence or recall, or to perform any other act which, according to "the usage and consent of western nations," is done in special audience, in the same manner that the United States minister at Peking is required to do.

It does not appear practicable at present to give you any more precise instructions in the premises than these.

I am, etc.,

T. F. BAYARD.

No. 212.

Mr. Bayard to Mr. Denby.

No. 325.] DEPARTMENT OF STATE,
Washington, June 6, 1888.

SIR: Your No. 621, of the 13th of April last, relating to the missionary troubles at Chinanfu, has been received and read with much attention and interest. Your course in the matter appears to have been judicious, and your estimate of the legal and practical aspects of the case to be correct, so that it does not seem to the Department advisable to fetter your action by any absolute instructions. Your knowledge of

the feelings and character of the parties to the dispute will doubtless enable you to balance the arguments on either side and bring the question to a mutually advantageous issue.

Should another tract of land satisfactory to the missionaries be found it would seem wiser to accept it and for Mr. Reid to waive any claim for damages, inasmuch as the actual base of all his actions falls through, as you state, under the circumstances as admitted by him and which appear to have been the cause of the resistance of the Chinese to Mr. Reid's entry on the premises.

It is hoped that the rights of missionaries, if not too aggressively asserted by them, will, with time and patience, gradually grow in scope, and acquire somewhat of the stability of consuetudinary privilege; but the religious and local prejudices of the inhabitants, as, for instance, the one in question of geomantic influences, should be borne in mind, and as far as possible such arrangements made by the missionaries as will avoid an appeal to treaty rights which might lead the Chinese to insist officially on the strict letter of the treaties. Experience shows that by a moderate amount of conciliation and good will the rights of foreigners will be gradually extended and interpreted by the Chinese in a more liberal spirit and beyond the limits of the treaty ports.

I shall hope soon to receive from you a report of the amicable and satisfactory settlement of these troubles.

I am, etc.,

T. F. BAYARD.

No. 213.

Mr. Bayard to Mr. Denby.

No. 327.] DEPARTMENT OF STATE,
Washington, June 7, 1888.

SIR: I have received your No. 628 of April 17, 1888, in regard to the inquiry of the vice-consul at New-chwang as to the treatment of American citizens engaged in smuggling contraband goods in China and your reply that no law was provided for the punishment of such offenders personally.

As you say, "confiscation of the smuggled goods is the only penalty I [you] know of," and that is to be applied by China under her own revenue laws. This point was made clear in the Department's recent correspondence with you about the opium smuggling act approved February 23, 1887.*

I am, etc.,

T. F. BAYARD.

No. 214.

Mr. Bayard to Mr. Denby.

No. 328.] DEPARTMENT OF STATE,
Washington, June 7, 1888.

SIR: The treaty concluded in this city on March 12 last, between the Chinese minister and myself, was, as you have been heretofore in-

*Printed in Foreign Relations, 1887, pages 225, 237–243.

formed, duly submitted to the Senate for its advice and consent, and a full copy thereof, together with the message of the President transmitting the same, have been transmitted to you for your information.

On the 7th of May the treaty was confirmed by the Senate, with two amendments.

I now inclose a copy of the treaty as so amended, and with it a copy of the correspondence* held by me with Mr. Chang Yen Hoon, the Chinese minister, by which you will perceive that he does not consider that the Senate's amendments change the force or effect of the text of the original treaty and that he accepts the same as in consonance with the treaty as concluded.

It appears also by the letter of his excellency that, under the Chinese system of making treaties, it is necessary that all conventions shall receive the imperial assent before the exchange of ratifications can be authorized. To this end, the treaty upon being signed was at once transmitted to the Chinese foreign office at Peking.

The effect of the Senate amendments was to necessitate a submission of them likewise to the same authority, and they have, therefore, been duly forwarded to Peking by the Chinese minister.

Pending the consideration of the treaty and the Senate amendments by the authorities in China, and the communication of the result of such consideration to the Chinese minister here, the latter has embarked for Peru, to be absent several months in the performance of his official duties as minister duly accredited by China to represent that Government in Peru.

The delay consequent upon his absence, and the action of the Senate in attaching amendments to the treaty, will prevent the enactment at this session of the legislation by Congress needed to carry the treaty into effect, and nothing more can probably be done until the reassembling of Congress in December next.

In the interim, however, the treaty as amended may be received from China, and ratifications being exchanged it may be within the power of the President to make proclamation of its final adoption.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 328.]

Copy of treatg as amended.

Whereas on the 17th day of November, A. D. 1880, a treaty was concluded between the United States and China for the purpose of regulating, limiting, or suspending the coming of Chinese laborers to, and their residence in, the United States;

And whereas the Government of China, in view of the antagonism and much deprecated and serious disorders to which the presence of Chinese laborers has given rise in certain parts of the United States, desires to prohibit the emigration of such laborers from China to the United States;

And whereas the Government of the United States and the Government of China desire to co-operate in prohibiting such emigration, and to strengthen in other ways the bonds of friendship between the two countries;

Now, therefore, the President of the United States has appointed Thomas F. Bayard, Secretary of State of the United States, as his Plenipotentiary; and His Imperial Majesty the Emperor of China has appointed Chang Yen Hoon, Minister of the Third Rank of the Imperial Court, Civil President of the Board of Imperial Cavalry and Envoy Extraordinary and Minister Plenipotentiary, as his Plenipotentiary; and the

* See Docs. Nos. 260, 261, 262, 263, *post*, pages 396, 400, 400, 401, respectively.

said plenipotentiaries, having exhibited their respective full powers found to be in due and good form, have agreed upon the following articles:

ARTICLE I.

The high contracting parties agree that for a period of twenty years, beginning with the date of the exchange of the ratifications of this Convention, the coming, except under the conditions hereinafter specified, of Chinese laborers to the United States shall be absolutely prohibited; *and this prohibition shall extend to the return of Chinese laborers who are not now in the United States, whether holding return certificates under existing laws or not.*

ARTICLE II.

The preceding article shall not apply to the return to the United States of any Chinese laborer who has a lawful wife, child, or parent in the United States, or property therein of the value of one thousand dollars, or debts of like amount due him and pending settlement. Nevertheless, every such Chinese laborer shall, before leaving the United States, deposit, as a condition of his return, with the collector of customs of the district from which he departs, a full description in writing of his family, or property, or debts, as aforesaid, 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 now or hereafter prescribe and not inconsistent with the provisions of this treaty; and should the written description aforesaid be proved to be false, the right of return thereunder, or of continued residence after return, shall in each case be forfeited. And such right of return to the United States shall be exercised within one year from the date of leaving the United States; but such right of return to the United States may be extended for an additional period, not to exceed one year, in cases where by reason of sickness or other cause of disability beyond his control such Chinese laborer shall be rendered unable sooner to return; which facts shall be fully reported to the Chinese consul at the port of departure, and by him certified, to the satisfaction of the collector of the port at which such Chinese subject shall land in the United States. *And no such Chinese laborer shall be permitted to enter the United States by land or sea without producing to the proper officer of the customs the return certificate herein required.*

ARTICLE III.

The provisions of this Convention shall not affect the right at present enjoyed of Chinese subjects, being officials, teachers, students, merchants, or travelers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein. To entitle such Chinese subjects as are above described to admission into the United States they may produce a certificate from their Government or the Government where they last resided, viséd by the diplomatic or consular representative of the United States in the country or port whence they depart.

It is also agreed that Chinese laborers shall continue to enjoy the privilege of transit across the territory of the United States in the course of their journey to or from other countries, subject to such regulations by the Government of the United States as may be necessary to prevent said privilege of transit from being abused.

ARTICLE IV.

In pursuance of Article III of the immigration treaty between the United States and China, signed at Peking on the 17th day of November, 1880, it is hereby understood and agreed that Chinese laborers, or Chinese of any other class, either permanently or temporarily residing in the United States, shall have for the protection of their persons and property all rights that are given by the laws of the United States to citizens of the most favored nation, excepting the right to become naturalized citizens. And the Government of the United States re-affirms its obligation, as stated in said Article III, to exert all its power to secure protection to the persons and property of all Chinese subjects in the United States.

ARTICLE V.

Whereas Chinese subjects, being in remote and unsettled regions of the United States, have been the victims of injuries in their persons and property at the hands of wicked and lawless men, which unexpected events the Chinese Government regrets, and for which it has claimed an indemnity the legal obligation of which the Government of the United States denies; and whereas the Government of the United States,

humanely considering these injuries and bearing in mind the firm and ancient friendship between the United States and China, which the high contracting parties wish to cement, is desirous of alleviating the exceptional and deplorable sufferings and losses to which the aforesaid Chinese have been subjected; therefore, the United States, without reference to the question of liability therefor (which as a legal obligation it denies), agrees to pay on or before the 1st day of March, 1889, the sum of $276,619.75 to the Chinese minister at this capital, who shall accept the same, on behalf of his Government, as full indemnity for all losses and injuries sustained by Chinese subjects as aforesaid, and shall distribute the said money among the said sufferers and their relatives.

ARTICLE VI.

This convention shall remain in force for a period of twenty years, beginning with the date of the exchange of ratifications; and if, six months before the expiration of the said period of twenty years, neither Government shall formally have given notice of its termination to the other, it shall remain in full force for another like period of twenty years.

INCLOSURES.

No. 215.

Mr. Bayard to Mr. Denby.

No. 329.] DEPARTMENT OF STATE,
Washington, June 15, 1888.

SIR: I desire to acknowledge the receipt of your No. 639 of the 5th of May last, and to express the Department's satisfaction that the intricate question relating to the etiquette to be observed between the Chinese foreign office and the diplomatic body at Peking on New Year's Day has at last been disposed of.

I am, sir, etc.,

T. F. BAYARD.

No. 216.

Mr. Denby to Mr. Bayard.

No. 651.] LEGATION OF THE UNITED STATES,
Pekin, June 25, 1888. (Received August 20.)

SIR: I now have the honor to transmit herewith the English text of the treaty between Portugal and China and convention appended thereto.

I have the honor, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 651.]

TREATY OF AMITY AND COMMERCE BETWEEN PORTUGAL AND CHINA.

Preamble of the treaty.

His Most Faithful Majesty the King of Portugal and Algarves, and His Imperial Majesty the Emperor of China, desiring to draw closer and to consolidate the ties of friendship which have subsisted already for more than three hundred years between Portugal and China, and having agreed at Lisbon the 26th day of March, 1887, sec-

ond day of the third moon of the thirteenth year of the reign of the Emperor Kuang-hsü, through their representatives, on a protocol of four articles, have now resolved to conclude a treaty of amity and commerce to regulate the relations between the two states. For this end they have appointed as their plenipotentiaries: His Most Faithful Majesty the King of Portugal and Algarves Thomas de Souza Roza his envoy extraordinary and minister plenipotentiary in special mission to the court of Peking, knight of the order of Nossa-Senhora de Conceição de Villa Viçosa, Grand Cross of the Order of the Rising Sun of Japan and of the Crown of Siam, commander of the Order of Charles III and of Isabella the Catholic of Spain and knight of the Iron Crown of Austria;

His Imperial Majesty the Emperor of China his highness Prince Ch'ing, president of the Tsung-li Yamên, and Sun, senior vice-president of the board of works and minister of the Tsung-li Yamên; who, after having communicated to each other their respective full powers and found them to be in good and due form, have agreed upon the following articles:

ART. I. There shall continue to exist constant peace and amity between His Most Faithful Majesty the King of Portugal and the Algarves and his Imperial Majesty the Emperor of China, whose respective subjects shall equally enjoy, in the dominions of the high contracting parties, the most complete and decided protection for their persons and property.

ART. II. China confirms in its entirety the second article of the protocol of Lisbon, relating to the perpetual occupation and Government of Macao by Portugal.

It is stipulated that commissioners appointed by both Governments shall proceed to the delimitation of the boundaries, which shall be determined by a special convention; but so long as the delimitation of the boundaries is not concluded, everything in respect to them shall continue as at present, without addition, diminution, or alteration by either of the parties.

ART. III. Portugal confirms, in its entirety, the third article of the protocol of Lisbon, relating to the engagement never to alienate Macao without previous agreement with China.

ART. IV. Portugal agrees to co-operate with China in the collection of duties on opium exported from Macao into Chinese ports, in the same way and as long as England co-operates with China in the collection of duties on opium exported from Hong-Kong into Chinese ports.

The basis of this co-operation will be established by a convention appended to this treaty, which shall be as valid and binding to both the high contracting parties as the present treaty.

ART. V. His Most Faithful Majesty the King of Portugal and the Algarves may appoint an ambassador, minister, or other diplomatic agent to the court of His Imperial Majesty the Emperor of China, and this agent as well as the persons of his suite and their families will be permitted, at the option of the Portuguese Government, to reside permanently in Peking, to visit that court, or to reside at any other place where such residence is equally accorded to the diplomatic representatives of other nations. The Chinese Government may also, if it thinks fit, appoint an ambassador, minister, or other diplomatic agent to reside at Lisbon, or to visit that court when his Government shall order.

ART. VI. The diplomatic agents of Portugal and China shall reciprocally enjoy in the place of their residence all the prerogatives and immunities accorded by the law of nations; their persons, families, and houses, as well as their correspondence, shall be inviolate.

ART. VII. The official correspondence, addressed by Portuguese authorities to the Chinese authorities, shall be written in the Portuguese language, accompanied by a translation in Chinese, and each nation shall regard as authoritative the document written in its own language.

ART. VIII. The form of correspondence between the Portuguese and the Chinese authorities will be regulated by their respective rank and position, based upon complete reciprocity. Between the high Portuguese and Chinese functionaries at the capital or elsewhere, such correspondence will take the form of dispatch (chan-hoei); between the subordinate functionaries of Portugal and the chief authorities of the provinces, the former shall make use of the form of exposition (xen-chen) and the latter that of declaration (cha-hsing); and the subordinate officers of both nations shall correspond together on terms of perfect equality. Merchants, and generally all others who are not invested with an official character, shall adopt in addressing the authorities the form of representation or petition (pin-ching).

ART. IX. His Most Faithful Majesty the King of Portugal and the Algarves may appoint consuls-general, consuls, vice-consuls, or consular agents in the ports or other places where it is allowed to other nations to have them. These functionaries will have powers and attributes similar to those of the consuls of other nations, and will enjoy all the exemptions, privileges, and immunities, which at any time the consular functionaries of the most favored nation may enjoy.

The consuls and the local authorities will show to each other reciprocal civilities and correspond with each other on terms of perfect equality.

The consuls and acting consuls will rank with Tau-tais; vice-consuls, acting vice-consuls, consular agents, and interpreters—translators, with prefects. The consuls must be officials of the Portuguese Government and not merchants. The Chinese Government will make no objection in case the Portuguese Government should deem it unnecessary to appoint an official consul at any port and choose to intrust a consul of some other nation, for the time being, with the duties of Portuguese consul at that port.

ART. X. All the immunities and privileges, as well as all the advantages concerning commerce and navigation, such as any reduction in the duties of navigation, importation, exportation, transit, or any other which may have been or may be hereafter granted by China to any other State, or to its subjects, will be immediately extended to Portugal and its subjects. If any concessson is granted by the Chinese Government to any foreign government under special conditions, Portugal, on claiming the same concession for herself and for her own subjects, will equally assent to the conditions attached to it.

ART. XI. Portuguese subjects are allowed to reside at or frequent the ports of China opened to foreign commerce, and there carry on trade or employ themselves freely. Their boats may navigate without hindrance between the ports open to foreign commerce, and they may import and export their merchandise, enjoying all the rights and privileges enjoyed by the subjects of the most favored nation.

ART. XII. Portuguese subjects shall pay import and export duties on all merchandise according to the rates specified in the tariff of 1858, adopted for all the other nations; and in no instance shall higher duties be exacted from them than those paid by the subjects of any other foreign nation.

ART. XIII. Portuguese subjects are permitted to hire any description of boats they may require for the conveyance of cargo or passengers, and the price of said hire will be fixed by the contracting parties alone, without interference of the Chinese Government. No limit shall be put to the number of boats, neither will it be permitted to any one to establish a monopoly of such boats or of the service of coolies employed in the carriage of merchandise.

Should contraband articles be on board any such boats, the guilty parties shall immediately be punished according to law.

ART. XIV. Portuguese subjects residing in the open ports may take into their service Chinese subjects and employ them in any lawful capacity in China, without restraint or hindrance from the Chinese Government, but shall not engage them for foreign countries in contravention of the laws of China.

ART. XV. The Chinese authorities are bound to grant the fullest protection to the persons and to the property of Portuguese subjects in China, whenever they may be exposed to insult or wrong. In case of robbery or incendiarism, the local authorities will immediately take the necessary measures to recover the stolen property, to terminate the disorder, to seize the guilty and punish them according to the law. Similar protection will be given by Portuguese authorities to Chinese subjects in the possessions of Portugal.

ART. XVI. Whenever a Portuguese subject intends to build or open houses, shops, or warehouses, churches, hospitals, or cemeteries, at the treaty ports, or at other places, the purchase, rent, or lease of these properties shall be made out according to the current terms of the place, with equity, without exaction on either side, without offending against the usages of the people, and after due notice given by the proprietors to the local authority. It is understood, however, that the shops or warehouses above mentioned shall only be allowed at the ports open to trade, but not in any place in the interior.

ART. XVII. Portuguese subjects conveying merhandise between open ports shall be required to take certificates from the superintendent of the custom-house, such as are specified in the regulations in force with reference to other nationalities.

But Portuguese subjects, who, without carrying merchandise, should like to go to the interior of China must have passports issued by their consuls and countersigned by the local authorities. The bearer of the passport must produce the same when demanded; and the passport not being irregular, he will be allowed to proceed and no opposition shall be offered, especially to his hiring persons or vessels for the carriage of his baggage or merchandise.

If he be without a passport, or if he commits any offense against the law, he shall be handed over to the nearest consul of Portugal, to be punished, but he must not be subjected to any oppressive measure. No passport need be applied for by persons going on excursions from the ports open to trade to a distance not exceeding 100 li and for a period not exceeding five days.

The provisions of this article do not apply to crews of ships, for the due restraint of whom regulations will be drawn up by the consul and the local authorities.

ART. XVIII. In the event of a Portuguese merchant vessel being plundered by pi-

rates or thieves within Chinese waters, the Chinese authorities are to employ their utmost exertions to seize and punish the said robbers and to recover the stolen goods, which, through the consul, shall be restored to whom they belong.

ART. XIX. If a Portuguese vessel be shipwrecked on the coast of China, or be compelled to take refuge in any of the ports of the Empire, the Chinese authorities, on receiving notice of the fact, shall provide the necessary protection, affording prompt assistance and kind treatment to the crews and, if necessary, furnishing them the means to reach the nearest consulate.

ART. XX. Portuguese merchant vessels of more than 150 tons burden will pay tonnage dues at the rate of 4 mace per ton; if of 150 tons and under, they shall be charged at the rate of 1 mace per ton. Superintendent of the customs shall grant a certificate, declaring that the tonnage dues have been paid.

ART. XXI. Import duties shall be paid on the landing of goods; and export duties upon the shipment of the same.

ART. XXII. The captain of a Portuguese ship may, when he deems convenient, land only a part of his cargo at one of the open ports, paying the duties due on the portion landed; the duties on the remainder not being payable until they are landed at some other port.

ART. XXIII. The master of a Portuguese ship has the option, within forty-eight hours of his arrival at any of the open ports of China, but not later, to decide whether he will leave port without opening the hatches, and in such case he will not have to pay tonnage dues. He is bound, however, to give notice of his arrival for the legal registering as soon as he comes into port, under penalty of being fined in case of non-compliance within the term of two days.

The ship will be subject to tonnage dues forty-eight hours after her arrival in port, but neither then nor at her departure shall any other impost whatever be exacted.

ART. XXIV. All small vessels employed by Portuguese subjects in carrying passengers, baggage, letters, provisions, or any other cargo which is free of duty, between the open ports of China, shall be free from tonnage dues; but all such vessels carrying merchandise subject to duty shall pay tonnage dues every four months at the rate of 1 mace per ton.

ART. XXV. Portuguese merchant vessels approaching any of the open ports will be at liberty to take a pilot to reach the harbor; and likewise to take a pilot to leave it, in case the said ship shall have paid all the duties due by her.

ART. XXVI. Whenever a Portuguese merchant ship shall arrive at any of the open ports of China the superintendent of the customs will send off one or more custom-house officers, who may stay on board of their boat or on board of the ship, as best suits their convenience. These officers will get their food and all necessaries from the custom-house, and will not be allowed to accept any fee from the captain of the ship, or from the consignee, being liable to a penalty proportionate to the amount received by them.

ART. XXVII. Twenty-four hours after the arrival of a Portuguese merchant ship at any of the open ports the papers of the ship, manifest, and other documents shall be handed over to the consul, whose duty it will be also to report to the superintendent of the customs, within twenty-four hours, the name, the registered tonnage, and the cargo brought by the said vessel. If, through negligence or for any other motive, this stipulation be not complied with within forty-eight hours after the arrival of the ship, the captain shall be subject to a fine of 50 taels for each day's delay over and above that period, but the total amount of the fines shall not exceed 200 taels.

The captain of the ship is responsible for the correctness of the manifest, in which the cargo shall be minutely and truthfully described, subject to a fine of 500 taels as a penalty in case the manifest should be found incorrect. This fine, however, will not be incurred if, within twenty-four hours after the delivery of the manifest to the custom-house officers, the captain expressed the wish to rectify any error which may have been discovered in the said manifest.

ART. XXVIII. The superintendent of customs will permit the discharging of the ship as soon as he shall have received from the consul the report drawn in due form. If the captain of the ship shouldtake upon himself to commence discharging without permission, he shall be fined 500 taels and the goods so discharged shall be confiscated.

ART. XXIX. Portuguese merchants having goods to ship or to land will have to obtain a special permission from the superintendent of customs to that effect, without which all goods shipped or landed shall be liable to confiscation.

ART. XXX. No transshipment of goods is allowed from ship to ship without special permission, under penalty of confiscation of all the goods so transshipped.

ART. XXXI. When a ship shall have paid all her duties, the superintendent of customs will grant her a certificate, and the consul will return the papers, in order that she may proceed on her voyage.

ART. XXXII. When any doubt may arise as to the value of goods which by the tariff are liable to an *ad valorem* duty, and the Portuguese merchant disagrees with the cus-

tom-house officers as regards the value of said goods, both parties will call two or three merchants to examine them, and the highest offer made by any of the said merchants to buy the goods will be considered as their just value.

ART. XXXIII. Duties will be paid on the net weight of every kind of merchandise. Should there be any difference of opinion between the Portuguese merchant and the custom-house officer as to the mode by which the tare is to be fixed, each party will choose a certain number of boxes or bales from among every hundred packages of the goods in question, taking the gross weight of said packages, then the tare of each of the packages separately, and the average tare resulting therefrom will be adopted for the whole parcel.

In case of any doubt or dispute not mentioned herein the Portuguese merchant may appeal to the consul, who will refer the case to the superintendent of customs; this officer will act in such a manner as to settle the question amicably. The appeal, however, will only be entertained if made within the term of twenty-four hours; and in such a case no entry is to be made in the custom-house books in relation to the said goods until the question shall have been settled.

ART. XXXIV. Damaged goods will pay a reduced duty proportionate to their deterioration. Any doubt on this point will be solved in the way indicated in the clause of this treaty with respect to duties payable on merchandise *ad valorem*.

ART. XXXV. Any Portuguese merchant who, having imported foreign goods into one of the open ports of China and paid the proper duties thereon, may wish to re-export them to another of the said ports, will have to send to the superintendent of customs an account of them, who, to avoid fraud, will direct his officers to examine whether or not the duties have been paid; whether the same have been entered on the books of the customs; whether they retain their original marks, and whether the entries agree with the account sent in. Should everything be found correct, the same will be stated in the export permit, together with the total amount of duties paid, and all these particulars will be communicated to the custom-house officers at other ports.

Upon arrival of the ship at the port to which the goods are carried, permission will be granted to land without any new payment of duties whatsoever, if, upon examination, they are found to be the identical goods, but if during the examination any fraud be detected the goods may be confiscated by the Chinese Government.

Should any Portuguese merchant wish to re-export to a foreign country any goods imported, and upon which duties have been already paid, he will have to make his application in the same form as required for the re-exportation of goods to another port in China, in which case a certificate of drawback or of restitutions of duties will be granted, which will be accepted by any of the Chinese custom-houses in payment of import or export duties.

Foreign cereals imported by Portuguese ships into the ports of China may be re-exported without hinderance, if no portion of it has been discharged.

ART. XXXVI. The Chinese authorities will adopt at the ports the measures which they may deem the most convenient to avoid fraud or smuggling.

ART. XXXVII. The proceeds of fines and confiscations inflicted on Portuguese subjects, in conformity to this treaty, shall belong exclusively to the Chinese Government.

ART. XXXVIII. Portuguese subjects carrying goods to a market in the interior of the country, on which the lawful import duties have already been paid at any of the open ports, or those who buy native products in the interior to bring to the ports on the Yang-tse-Kiang, or to send to foreign ports, shall follow the regulations adopted towards the other nations.

Custom-house officers who do not comply with the regulations, or who may exact more duties than are due, shall be punished according to the Chinese laws.

ART. XXXIX. The consuls and local authorities shall consult together, when necessary, as to the construction of light-houses and the placing of buoys and light-ships.

ART. XL. Duties shall be paid to the bankers authorized by the Chinese Government to receive them in *sycee* or in foreign coin, according to the official assay made at Canton on the 15th of July, 1843.

ART. XLI. In order to secure the regularity of weights and measures and to avoid confusion, the superintendent of customs will hand over to the Portuguese consul at each of the open ports standards similar to those given by the Treasury Department for collection of public dues at the customs at Canton.

ART. XLII. Portuguese merchant ships may resort only to these ports of China which are declared open to commerce. It is forbidden to them, except in the case of *force majeure*, provided for in Article XIX, to enter into other ports, or to carry on a clandestine trade on the coast of China; and the transgressor of this order shall be subject to confiscation of his ship and cargo by the Chinese Government.

ART. XLIII. All the Portuguese vessels dispatched from one of the open ports of China to another, or to Macao, are entitled to a certificate of the custom-house, which

will exempt them from paying new tonnage dues during the period of four months, reckoned from the date of clearance.

ART. XLIV. If any Portuguese merchant ship is found smuggling, the goods smuggled, no matter of what nature or value, will be subject to confiscation by the Chinese authorities, who may send the ship away from the port, after settlement of all her accounts, and prohibit her to continue to trade.

ART. XLV. As regards the delivery of Portuguese and Chinese criminals, with the exception of the Chinese criminals who take refuge in Macao, and for whose extradition the governor of Macao will continue to follow the existing practice, after the receipt of a due requisition from the viceroy of the two Kwangs, it is agreed that in the Chinese ports open to foreign trade the Chinese criminals who take refuge at the houses or on board the ships of Portuguese subjects, shall be arrested and delivered to the Chinese authorities on their applying to the Portuguese consul; and likewise the Portuguese criminals, who take refuge in China, shall be arrested and delivered to the Portuguese authorities on their applying to the Chinese authorities; and by neither of the parties shall the criminals be harbored, nor shall there be delay in delivering them.

ART. XLVI. It is agreed that either of the high contracting parties to this treaty may demand a revision of the tariff, and of the commercial articles of this treaty, 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.

ART. XLVII. All disputes arising between Portuguese subjects in China with regard to rights, either of property or person, shall be submitted to the jurisdiction of the Portuguese authorities.

ART. XLVIII. Whenever Chinese subjects become guilty of any criminal act toward Portuguese subjects, the Portuguese authorities must report such acts to the Chinese authorities in order that the guilty be tried according to the laws of China.

If Portuguese subjects become guilty of any criminal act towards Chinese subjects, the Chinese authorities must report such acts to the Portuguese consul in order that the guilty be tried according to the laws of Portugal.

ART. XLIX. If any Chinese subject shall have become indebted to a Portuguese subject and withholds payment, or fraudulently absconds from his creditors, the Chinese authorities shall use all their efforts to apprehend him and to compel him to pay, the debt being previously proved and the possibility of its payment ascertained. The Portuguese authorities will likewise use their efforts to enforce the payment of any debt due by any Portuguese subject to a Chinese subject.

But in no case will the Portuguese Government or the Chinese Government be considered responsible for the debts of their subjects.

ART. L. Whenever any Portuguese subject shall have to petition the Chinese authority of a district, he is to submit his statement beforehand to the consul, who will cause the same to be forwarded should he see no impropriety in so doing, otherwise he will have it written out in other terms, or decline to forward it. Likewise, when a Chinese subject shall have occasion to petition the Portuguese consul, he will only be allowed to do so through the Chinese authority, who shall proceed in the same manner.

ART. LI. Portuguese subjects who may have any complaint or claim against any Chinese subject, shall lay the same before the consul, who will take due cognizance of the case and will use all his efforts to settle it amicably.

Likewise, when a Chinese subject shall have occasion to complain of a Portuguese subject, the consul will listen to his complaint and will do what he possibly can to re-establish harmony between the two parties.

If, however, the dispute be of such a nature that it can not be settled in that conciliatory way, the Portuguese consul and Chinese authorities will hold a joint investigation of the case, and decide it with equity, applying each the laws of his own country according to the defendant.

ART. LII. The Catholic religion has for its essential object the leading of men to virtue. Persons teaching it and professing it shall alike be entitled to efficacious protection from Chinese authorities; nor shall such persons, pursuing peaceably their calling and not offending against the laws, be persecuted or interfered with.

ART. LIII. In order to prevent for the future any discussion, and considering that the English language, among all foreign languages, is the most generally known in China, this treaty, with the convention appended to it, is written in Portuguese, Chinese, and English, and signed in six copies, two in each language. All these versions have the same sense and meaning, but if there should happen to be any divergence in the interpretation of the Portuguese and Chinese versions, the English text will be made use of to resolve the doubts that may have arisen.

ART. LIV. The present treaty, with the convention appended to it, shall be ratified by his most faithful majesty the King of Portugal and the Algarves and his imperial

majesty the Emperor of China. The exchange of the ratifications shall be made within the shortest possible time, at Tientsin, after which the treaty, with the convention appended, shall be printed and published, in order that the functionaries and subjects of the two countries may have full knowledge of their stipulations and may fulfill them.

In faith whereof the respective plenipotentiaries have signed the present treaty and have affixed their seals thereto.

Done in Peking, this first day of the month of December, in the year of our Lord Jesus Christ 1887, corresponding with the Chinese date the 17th day of 10th moon of the 13 year of Kwang Sü.

[L. S.] THOMAS DE SOUSA ROSA.

Signatures of the Chinese plenipotentiaries.

[CHINESE SEAL.] PRINCE CHING,
SUN-IU UEN.

Ratifications exchanged April 28, 1888.

[Inclosure 2 in No. 651.]

Convention appended to the treaty of amity and commerce concluded between Portugal and China on the 1st December, 1887.

ART. I. Portugal will enact a law subjecting the opium trade of Macao to the following provisions:

(1) No opium shall be imported into Macao in quantities less than one chest.

(2) All opium imported into Macao must, forthwith on arrival, be reported to the competent department under a public functionary appointed by the Portuguese Government, to superintend the importation and exportation of opium in Macao.

(3) No opium imported into Macao shall be transshipped, landed, stored, removed from one store to another, or exported, without a permit issued by the superintendent.

(4) The importers and exporters of opium in Macao must keep a register, according to the form furnished by the Government, showing with exactness and clearness the quantity of opium they have imported, the number of chests they have sold, to whom and to what place they were disposed of, and the quantity in stock.

(5) Only the Macao opium farmer, and persons licensed to sell opium at retail, will be permitted to keep in their custody raw opium in quantities inferior to one chest.

(6) Regulations framed to enforce in Macao the execution of this law will be equivalent to those adopted in Hong-Kong for similar purposes.

ART. II. Permits for the exportation of opium from Macao into Chinese ports, after being issued, shall be communicated by the superintendent of opium to the commissioner of customs at Kung-pacuan.

ART. III. By mutual consent of both the high contracting parties the stipulations of this convention may be altered at any time.

In faith whereof the respective plenipotentiaries have signed and sealed this convention.

Done in Peking this 1st day of December, in the year of our Lord Jesus Christ 1887, corresponding with the Chinese date the 17th day of 10th moon of the 13th year of Kwang-Sü.

[L. S.] THOMAS DE SOUSA ROSA.

Signatures of the Chinese plenipotentiaries.

[CHINESE SEAL.] PRINCE CHING,
SUN-IU-UEN.

No. 217.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 659.] LEGATION OF THE UNITED STATES,
Peking, July 9, 1888. (Received August 20.)

SIR: As matter of information on an interesting question, I have the honor to inclose herewith a translation of the agreement lately made by

the German minister with the Tsung-li Yamên as to the status of Chinese women married to German subjects.

The understanding reached is that such women shall be subject to the laws of the husband's nationality. Under section 1994, Revised Statutes, second edition,* page 350, and section 147†, Con. Reg., 1888, this result does not follow a marriage where the contracting alien is an American, because under recent statutes no Chinese subject can be naturalized.

Americans have occasionally married Chinese women.

Intermarriage with persons of other nationalities is common. I personally know some very respectable families where the mother is Chinese and the father an alien.

The perplexities attending the condition of a Chinese woman married to an American are manifold and embarrassing. She alone of the family would be subject to Chinese law and beyond the pale of American protection. Her husband's death would leave her practically without any nationality.

Doubtless, in practice, such an abhorrent condition would be softened as much as possible by the consuls and the legation. But the absolute law still remains and may constitute a bar to legal assistance to defenseless and dependent women, who, by a life-time of discharge of their duties, may have eminently merited all possible consideration. It is true, I think, as stated in the inclosure, that the general international law recognizes that a woman who marries an alien becomes subject to the jurisdiction of her husband's nationality. It seems to me that this is a better rule than the statutory exception quoted. While I cordially agree that public policy in the United States demands that Chinese subjects shall not be naturalized, I strongly incline to the opinion that a lawful marriage between a Chinese woman and an American citizen should insure to the wife the same protection which is granted to women of other nationalities upon their marriage with our citizens.

Without further argument I submit the question to your better judgment.

I am, etc.,

CHARLES DENBY.

[Inclosure in No. 659.—Translation.]

Agreement between Mr. von Brandt, German minister, and the Tsung-li Yamên in regard to marriages between Germans and Chinese.

Under the custom in all (foreign) countries, where a woman marries an alien she becomes subject to the jurisdiction of her husband's nationality. This custom should also follow in the case of Chinese women.

German consuls have frequently requested me to instruct them as to the jurisdiction a Chinese woman is under who marries a German subject, and acting under their requests it is right and proper that a mutual understanding should be arrived at upon the question.

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* SEC. 1994. Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.

† SEC. 147. It is further provided by law that any woman (who might lawfully be naturalized under the existing laws) married, or who shall be married, to a citizen of the United States shall be deemed and taken to be a citizen. The recognition of this citizenship will be subject to the qualifications above referred to. It is also provided (Rev. Stat., 2168) that when any alien who has made declaration dies before he is actually naturalized, the widow and children of such alien shall be considered as citizens of the United States upon taking the oaths prescribed by law.

According to my views a Chinese woman who marries a German subject should be subject to the jurisdiction of the laws of her husband's nationality. But the fact of her marriage to a subject of Germany should be communicated by the German consul (of the place) to the Chinese local authorities. This would meet the views of both countries.

As to existing marriages between Chinese women and Germans, after the present agreement between Mr. von Brandt and the Tsung-li Yamên is settled and takes effect, German consular officers shall then report them to the proper local authorities. If among them there are cases where the parties have failed to request the German consuls to report their marriage to the local authorities and an action at law is brought against the wife it shall be tried and settled by the Chinese authorities, or if it appears that a Chinese woman has been guilty of crime before her marriage, and for that reason marries a German subject for the purpose of placing herself under the protection of a distant country (Germany), on such cases being brought to light the crime committed shall be punished by the Chinese authorities.

German women entering into the bonds of matrimony with Chinese subjects shall be subject to the laws of their husband's nationality.

No. 218.

Mr. Denby to Mr. Bayard.

No. 660.] LEGATION OF THE UNITED STATES,
Peking, July 9, 1888. (Received August 20.)

SIR: In my dispatch No. 603, of the 27th of March, ultimo, I transmitted for your information a translation of a memorial submitted by the Viceroy Li Hung Chung to the throne on the subject of mining. In the memorial the viceroy referred to the employment of two American engineers—Mr. Church, who has been engaged at the mines at Jeho, and Mr. Ellsworth, employed at certain gold mines at Pingtu Chow in the province of Shantung.

From a report which I have received from a gentleman who has recently returned from the mines under the charge of Mr. Church, I learn that the enterprise augurs well of success.

There are two mines of argentiferous lead, or galena, now being worked with foreign machinery. At each, a shaft about 300 feet deep has been opened from the surface to water-level, and the water which has stood in the bottom of both mines for several years is now being pumped out. It appears that natives had been working the mines for about forty years, and had extracted pretty much all the ore above the water-level, but there they stopped, as they could not handle the water.

The foreign staff consists of Prof. J. A. Church (alluded to above) as superintendent; H. F. Dawes, assayer; an engineer and two miners from the Comstock mines in Nevada—all Americans. Two hundred native miners are employed, on wages. The mines are protected by a guard of fifty soldiers from the garrison at Ku Pei Kóu, as the country is infested with robbers who defy the weak and thinly scattered officials, and who sometimes go about plundering in large gangs of scores and hundreds of men.

No ore has been taken out by foreign methods up to the present. Work has been concentrated on sinking the shafts to get at the water with pumps. The shafts have passed through several veins of fine ore, and when the water is out probably richer ore will be found at the bottom, as indications are favorable to this. But nothing positive can be said at present. There is about 30,000 taels of pumping and hoisting machinery, made in San Francisco, now at these mines, leaving the

concentrating mills and smelting furnaces still to come if plenty of good ore is found later on, which in all probability will be the case.

The Viceroy has furnished the funds for machinery and for working expenses, and the mines may be considered as being worked for him. The ore is rich in lead, which the Viceroy is anxious to obtain, as there are no lead mines yet worked in China, and large quantities of lead are used for military purposes.

All difficulties have been overcome so far, and the first stage of the work is nearly completed, namely, pumping the water out of the mines and seeing what the prospects are under water. I understand that two months more will finish this, and then, if successful, work will begin in extracting and smelting ore. I also learn that it is the intention of the Viceroy to ultimately form and work these mines under a joint stock company.

I am, etc.,

CHARLES DENBY.

No. 219.

Mr. Denby to Mr. Bayard.

No. 667.] LEGATION OF THE UNITED STATES,
Peking, July 14, 1888. (Received August 29.)

SIR: I have the honor to make the following report on the foreign trade of China for the year 1887:

The value of the foreign trade.—The total value of the foreign trade was 188,123,877 Haikwan taels, as against 164,685,891 for 1886. These figures do not include the value of goods carried coastwise nor goods carried in Chinese junks which are not under the control of the maritime customs.

Customs revenue.—The customs revenue for 1887 was 20,541,399 Haikwan taels, being an increase of 5,396,711 taels. Of this increase, opium lekin accounts for 4,645,842 taels.

Exports.—The total value of the exports for 1887 was 85,860,208 taels, as against 77,206,568 taels in 1886, an increase of 8,653,640 taels.

In spite of the universal wail that went up over the depreciation of tea, the total quantity exported was 2,096,097 piculs in 1887, against 2,217,295 piculs in 1886. In quantity 5 per cent. (120,000 piculs) less left China in 1887 than in 1886. But the assessed value of the export in 1886 was 33,504,820 taels and in 1887 29,379,838 taels. "It is, therefore," says the statistical secretary of the customs "to the depreciation in value, with its likely effect in bringing about a diminished production in years to come, that we must attribute the apprehension entertained for the prosperity of this vast industry."

The total quantity of white raw-silk exported was 59,589 piculs. In this a quantity, 2,780 piculs, is included, which was exported in junks through the Kowloon and Lappa customs. Deducting this there remains 56,809 piculs, valued at 17,461,367 taels, a quantity almost identical with the export of 1886, but the value is 5 per cent. higher. The same remark applies to other classes of unmanufactured silks. Of brown sugar there was exported 458,268.85 piculs in 1886, against 634,179.12 piculs in 1887, an increase of 175,910.27 piculs.

Of white sugar there was exported in 1886, 128,828.14 piculs, against 113,475.42 in 1887. Of sugar candy there was exported 25,392.97 piculs in 1886, against 19,288,96 piculs in 1887.

Sugar has, therefore, in the main, recovered from the decline of last year.

Next to tea and silk comes straw braid as an article of export. The growth of this trade has been rapid. The exports were as follows: 1883, 58,627 piculs; 1884, 78,168 piculs; 1885, 76,494 piculs; 1886, 82,413 piculs; 1887, 150,952 piculs. The value in 1887 was 3,738,310 taels.

The principal original places of export are Tien-tsin and Chefoo, the largest exportation being from Tien-tsin. Great complaints have been made by foreign merchants of the bad condition in which this article has been brought to market, but the trade has nevertheless steadily increased.

Imports.—The total value of the imports of foreign goods was 102,263,669 taels against 87,479,323 taels in 1886, an increase of 14,784,346 taels.

Last year imports show an increase of 6,562.25 piculs in opium, an increase of 7,933,309 pieces, dozens, and piculs of cotton goods. They show also increase in miscellaneous piece goods, in metals, and in sundries. At the nineteen treaty ports the imports of English and American drills fell off from 416,699 pieces and 620,803 pieces, respectively, in 1886, to 288,511 pieces and 464,731 pieces, respectively, in 1887. Cotton lastings rose. Cotton yarn increased from 382,984 piculs in 1886 to 523,114 piculs in 1887.

The import of kerosene was, in 1886, 23,038,101 gallons; in 1887, 12,015,135 gallons, an enormous decrease. The statistical writer says: "As qualifying the vast discrepancy in the figures of the two years I am told that whereas the stock in Shanghai at the end of 1887 was only 5,500,000 gallons, that of 1886 was 10,500,000 gallons."

We find that the value of the imports from the United States in 1886 was 4,647,333 taels, and in 1887, 3,398,390 taels, a decrease of over 1,000,000. It is probably accounted for by the decrease in petroleum. The exports to the United States were, in 1886, 11,928,404 taels, and in 1887, 11,545,406 taels. The total trade with the United States was 14,677,487 taels in 1886, and 12,314,310 taels in 1887.

Trade of leading foreign countries.—The imports and exports of the leading foreign countries were as follows: Hong-Kong, 89,154,228 Haikwan taels; Great Britain, 42,149,286 Haikwan taels; Europe (Russia excepted), 14,132,954 Haikwan taels; United States, 12,314,310 Haikwan taels; Japan, 7,678,442 Haikwan taels; India, 6,334,945 Haikwan taels; Russia and Siberia, 5,704,281 Haikwan taels.

Shipping statistics.—Of vessels entered and cleared in 1887 the representation of the most important countries was as follows: Great Britain, 15,917; Chinese, 6,402; Chinese junks, 1,996; German, 2,749; Japanese, 409; American, 255; Spanish, 132; French, 121.

The shipping statistics show an increase of 137 vessels, aggregating 443,901 tons, over the year 1886.

Exchange.—The average rate of exchange on London during 1887 was the lowest average of any year on record.

The average value of the Haikwan tael during 1887 was 4*s.* 10½*d.*, against 5*s.* 0½*d.* in 1886. To understand exactly this question of exchange, let it be remembered simply that a person lays down at the bank at Shanghai a tael and inquires how much that will bring him in London. When the answer is 4*s.* 10½*d.*, instead of 5*s.* 8½*d.*, as in 1882, it will be seen how trade is affected and how grievously those residents of China suffer who are compelled to send money home to their families. The tael in which they receive their salaries or wages is becoming

day by day of less value, and their incomes are proportionately diminished. If, however, all the money earned is spent in China, the depreciation of the tael only remotely affects them. Prices of labor and of articles produced in the country are ordinarily not affected by the depreciation of silver. It is only the foreign value that is depreciated.

It must be said also that the high price of exchange or the low price of silver, as compared with gold, tends to stimulate foreign trade. As there is a great loss on silver converted into gold on London, the foreign merchant increases his exportations that he may get products in London which may be bargained for gold. The import trade is likewise stimulated, because the merchant is induced to bring goods to China which may be exchanged for native products. The low rate of exchange is, therefore, not an unmixed evil. The customs reports for 1887 show a considerable increase of business in spite of dearness, or, as they would say here, lowness of exchange, and in spite of the lugubrious complaints of all classes of merchants, particularly of dealers in tea. The tea market opened this year at higher rates than ever before, which fact is a curious commentary on the alleged ruin which attended the trade last year and which was prophesied this year.

Opium.—The statistical secretary thoroughly explains the new opium regulations. February 1, 1887, the system of collecting duty and lekin on opium, which had formerly appertained to the local officials, was transferred to the imperial maritime customs.

Two new offices of the customs were opened on April 2, at Kowloon (opposite to Hong-Kong) and Lappa (near Macao), to have supervision over the revenue accruing to China out of the commerce carried on in junks between Hong-Kong and Macao, respectively, and the main-land of China.

On June 1, Hong-Kong passed a new ordinance placing the opium trade within the colony under special regulations. These regulations prohibited the unauthorized possession of raw opium in smaller quantities than whole chests, and required retailers to record and account for raw opium taken over to be repacked into small-sized packages. As there are no means of getting raw opium into possession for any improper use the business of opium smuggling practically ceased. A like law was made for Macao. The tariff being the same in the nineteen treaty ports and in the two new ports of Kowloon and Lappa, and there being no difference in the tariff in favor of opium carried in junks as heretofore, opium is now generally carried by steamer.

The Secretary does not think that opium consumption has increased in China, but for the first time there are accurate statistics. Heretofore large quantities entered China lawfully and unlawfully of which no record was kept.

A preference for native opium is said to have been developed.

The Haikwan tael, in which the customs revenue and all values are stated, is equivalent in English money to 4*s.* 10½*d.*; American gold, to $1.20; French, 6.18 francs; German, 4.95 marks; Mexican, $1.54.

The picul is equivalent to 100 catties, or 133⅓ pounds avoirdupois, or 60,453 kilograms.

The catty is equivalent to 16 taels, or 1½ pounds avoirdupois, or 0.60453 kilograms.

The tael is equivalent to 1⅓ ounces avoirdupois or 0.037783 kilograms.

I have, etc.,

CHARLES DENBY.

No. 220.

Mr. Bayard to Mr. Denby.

No. 333.] DEPARTMENT OF STATE,
Washington, July 17, 1888.

SIR: I inclose for your information a copy of a letter from the Rev. Gilbert Reid, dated Chi-nan-fu, May 24, 1888, touching the rights and privileges of American missionaries in China, and a copy of my reply saying that you had already exerted yourself to obtain for those excellent and self-sacrificing citizens the amplest measure of protection and privilege, and would no doubt continue to do so.

I am, sir, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 333.]

Mr. Reid to Mr. Bayard.

CHI-NAN-FU, CHINA,
May 24, 1888. (Received July 12.)

DEAR SIR: I send by this mail a number of the Daily News, in which a Chi-nan-fu correspondent argues the question of the rights of missionaries in the interior of China. I send this number, as I understand the question is being brought to the notice of the State Department. In writing, I speak in behalf not only of all American missionaries, but of all Protestant missionaries. It would be a severe blow if the State Department and the United States minister should advocate the side of no right under the treaty. Better would it be if silence were adopted, in case a decision can not be rendered on the other side. If rendered in favor of such a right, it by no means implies that the right is of such a nature as to be pressed in argument before the Chinese Government. The American treaty has only the favored-nation clause, but this along with the tacit and open consent of the Chinese Government is sufficient. Just as the Chinese Government begins to put the question beyond all dispute, and to grant favors to missionaries, it would be a pity if a foreign government should be the cause of checking the favor In a conversation I had with the German minister I learned that he secured from the Tsung li Yamên (foreign office) a written statement that all German missionaries in the interior could have the same right as granted to Roman Catholic missionaries, viz, to purchase property in the name of the church. The Chinese Government is inclined to give toleration to Christianity and to missionaries, and it is to be hoped that nothing shall be done by the American Government to injure the efforts of missionaries merely because they are Americans.

Owing to the fact that *favor* is the chief feature, the *right* of it, under the "favored-nation clause" should be less pressed, perhaps, but not denied.

I thus write freely, as one interested in a question of vital importance.

I believe, sir, etc.,

GILBERT REID.

[Inclosure 2 in No. 333.]

Mr. Bayard to Mr. Reid.

DEPARTMENT OF STATE,
Washington, July 17, 1888.

SIR: Your letter of the 24th May last has been received. The number of the Daily News to which you refer as containing an article "in which a Chi-nan-fu correspondent argues the question of the rights of missionaries in the interior of China" has not been received, but its purport is sufficiently suggested by your comments.

I am happy to inform you that you are incorrectly advised if, as would seem, you infer that the United States minister in China is about to "advocate the side of no right under the treaty." Mr. Denby's standing instructions are to endeavor to obtain for our excellent and self-sacrificing missionaries in China no less a measure of

privilege than is granted by treaty, conferred by favor, or procured through use and custom for the missionaries of any other nation and creed, and a recent instruction has emphasized the satisfaction this Government will feel at beholding the safe and steady enlargement of the privileges which these estimable men may, and doubtless will, obtain for their labors as China yields more and more to influences of modern progress and realizes the determination of the missionaries to abide by all forms of law and cultivate kindly relations with the people among whom they cast their lot.

It is believed that our diplomatic representative in China, Mr. Denby, has energetically and efficiently exerted himself in behalf of missionary interests at all times and in all practicable ways. While doing so it is quite probable that he may sometimes have cautioned persons who were desirous of extending their privileges against the impolicy of impatient action and unadvised aggressiveness in the employment of privileges granted in excess of the letter of the treaties and resting upon favor rather than strict right. It is the duty of a diplomatic representative, while seeking to promote the attainment of the commendable desires of his countrymen, to advise them as to the law and treaties, in order that they may be duly informed of their rights, and that his efforts in their behalf may not be impeded by inopportune claims or demands. It is not doubted that Mr. Denby will always ask for his countrymen as great a measure of favor as is granted to citizens of any other power.

I am, sir, etc.,

T. F. BAYARD.

No. 221.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 670.] LEGATION OF THE UNITED STATES,
Peking, July 20, 1888. (Received September 11.)

SIR: I have the honor to report as briefly as possible the important incidents of the tour of inspection lately made by me to the divers ports in China.

I returned to Peking July 6, having been absent since April 28.

I embarked in the *Juniata*, Lieutenant Commander W. T. Burwell, commanding, May 11, at Shanghai. The first port touched at was Amoy.

Mr. Crowell is an energetic and efficient consul. His office was in excellent condition.

I invited Mr. Crowell to accompany me to Formosa.

Kelung, Formosa.—We dropped anchor at Kelung May 19. The harbor of Kelung is good. The ship declined the services of a pilot and sailed in by charts and anchored at about the middle of the harbor. As soon as we cast anchor a salute of twenty-one guns was fired by the fort. The Chinese flag was run up at the peak and twenty-one guns fired in return.

The Chihsien, or local magistrate, soon called, followed by the prefect and the general of the troops. The shore was decorated with great numbers of Chinese banners, and military companies were drawn up behind them.

The visiting officials informed me that the governor, Lin Ming Chuan, had sent chairs and bearers for the party, and had arranged for boats and other chairs at Si-Kow to convey us to the capital city, Taipeifu.

The next morning, May 20, we left the ship. I was accompanied by Consul Crowell, Captain Burwell, Lieutenants Wood, Usher, Chapin, Herbert, Dr. Ogden, and the second secretary. We were received on shore with a salute of three guns, the usual Chinese salute, by a company of soldiers and by the prefect and local magistrate. There are about 10,000 people in the various villages around the bay of Kelung.

The houses are small, one story, built of brick. The streets are about 8 feet wide. There were some respectable looking stores with foreign goods displayed, but the general appearance of the people and locality was one of great poverty. The people are much smaller than the northern Chinese, but seemed to be larger than the people of Amoy. Just outside the village of Kelung are the quarters of the general. In passing I returned his call. He received me with the usual salute, a display of soldiers, and gave me tea and wine.

The coal mines at Kelung.—The chief article of export is coal. The mines now worked, and considered available to supply a demand, lie in the hills to the east of Kelung. The mines are worked by the governor. They supply but a limited quantity of coal *per diem*. During the attack made by the French in 1884 the Chinese authorities flooded the shaft, and at present it is not entirely cleared and ready for work. When in working order the government mines, as at present developed, are reckoned capable of supplying about 200 tons of coal per day, but the available amount of coal can, perhaps, be considerably increased by using the output from coal seams worked by private persons. A number of such veins exist.

In quality the Kelung coal is said to be somewhat similar to Takasima or Karetse coal (Japan coal), though inferior to either of them. Analysis of this coal has been had from time to time, showing an improvement in quality as the vein is developed. At present there is but a limited demand for Kelung coal. The Douglas, Lapraik & Co.'s steamers use a mixture of one-half Kelung coal and one-half better quality from other sources of supply. These steamers run from Tamsui to Hong Kong and points on the coast. The *Juniata* took 30 tons of this coal at Kelung while there. It was of the best quality available, several grades having been shown to the officer who selected the coal. This coal was found to burn freely and gave about 9 per cent. ash, being about equal to Australian coal of good quality. Kelung coal was also found at the pagoda anchorage, Foo-Choo, where 70 tons were taken by the *Juniata*. This proved to be of very poor quality.

In general terms, this coal may be said to be fair steaming coal when of the best quality, and it is to be presumed that the quality will improve as lower levels of the coal veins are reached. The coal veins vary from 18 inches to 3 feet in thickness, and have a dip of 18 degrees to 20 degrees, and are worked in the usual manner. Mr. Matheson, an Englishman, has charge of the mines.

Railroads in Formosa.—Kelung is the northern terminus of the projected system of railways. The Kelung mountain is now being tunneled. A railroad is at present under construction designed to eventually communicate with the chief towns of southern Formosa. At present it extends from Kelung on the north as far as Changhwa, reckoned about 100 miles.

The surveys were made under the direction of English engineers brought out for the purpose. The labor is furnished by the governor from the troops at his disposal, and the material is procured by contract with foreigners, after competition in price and quality. The part of the line between Taipeifu and Kelung, 20 miles in length, is to be equipped by German firms. The southern end of the road from Taipeifu to Chang-hwa, 80 miles in length, is to be equipped by Jardine, Matheson & Co. It is rumored that the course of the road conforms rather to arbitrarily selected localities than to the present importance of some of the towns. There is projected but one station between Kelung and Taipeifu, that at Si-kow. The gauge of the road is to be 36 inches. The

tunnel at Kelung, which extends over 1,000 feet through the mountain, is not completed. As soon as it is finished the laying of the rails will be commenced.

The grading and ballasting of the road as far as Chang-hwa is completed. There remain yet some bridges to be erected. Some of the rails have been delivered at Kelung, but the greater part, together with the rolling stock, have not arrived.

At present the authorities engaged in the work expect to have the road in working condition in a year, but many of the foreigners resident in Formosa declare this to be impossible, and set the time as at least two years more.

As this railroad is designed to enhance the importance of Kelung, in addition to other directions of usefulness, it will probably somewhat diminish the prosperity of Tamsui. The residents of Tamsui, however, assert that other trade, chiefly tea, must pursue its present channels, as handling by railroad would be too rough for the chests.

It is to be seriously regretted that Messrs. Russell & Co. failed to secure the contract for building this road. The Americans did not or could not successfully compete with the German and English prices, though they presented the excellence of American products in the most attractive light. It was an error not to put the offers for the job at a rate low enough to secure it. If even there had been little or no profit, the prestige resulting from success would have very much increased American influence in Formosa. All this is well understood now, but it is too late.

It is possible that a thorough development of the coal mines and the use of the railway may make Kelung a successful rival of Amoy, and may very much depreciate the importance of that city. As matters now stand, nearly the entire tea crop of Formosa goes to the United States. This tea is carried to Amoy, a distance of 200 miles across the Formosa Channel. The transit is often dangerous by reason of the typhoons. The tea is then loaded on steamers destined to New York. If ships could secure coal in Kelung, and load there for New York, a transit of 400 miles would be saved. The governor entertains these views and looks to Kelung as a rival to Amoy in the future.

The port of Kelung has attracted the attention of the British admiral as a coaling station. He visited the port and examined the coal, and it is said that his opinion was favorable.

From Kelung to Twatutia.—The trip from Kelung to Twatutia is novel and interesting. After crossing the Kelung Mountains in chairs, or afoot, a branch of the Kelung River was reached. There boats awaited our party and in them we floated down the rapids between high hills and through picturesque gorges. There were long reaches of nearly still water and the progress was slow. Five hours after embarking we reached Si-kow. There we were carried ashore on the backs of men, the boats being unable to touch the bank. A great crowd of people had assembled to look at the foreigners. We were escorted to a large room and tea was handed us. We then took chairs again and proceeded along the bed of the railroad to Twatutia.

Taipeifu.—The new seat of government is Taipeifu. Here lives Lin Ming Chuan, the governor, under whose progressive direction the vast improvement in Formosa has been made. It is a new city, sparsely built up. It is surrounded by a stone wall about 25 feet high, measuring 1 mile around the city. The ground was originally a paddy-field. Owners of lots are now compelled to improve them in two months or sell them. The streets are laid out in foreign style, about 40 feet in

width. The improvements are uniformly of brick. The city is lighted with the electric light. There are 20 large and 100 small lights. The governor's Yamên is lighted with electricity.

There are cable lines of telegraph running to Sharp's Peak, near Foochow, which is the nearest point on the main-land, being about 100 miles nearer than Amoy. The cable is landed at Tamsui, which is 10 or 11 miles from Taipeifu. The telegraph line was completed to Kelung the 29th April of this year.

Near the city is an arsenal, at which arms and ammunition are made. There is a saw-mill, with modern imported machinery, which is now engaged in doing work for the railroad. Patent saw-mills have been imported for sawing great trees, with which the mountainous portions of the island abound. A school for teaching English has been started, which is attended by the governor's sons.

The jinrickshaw has been imported from Japan, and numbers of them convey passengers from Taipeifu to Twatutia.

The governor has ordered, through Messrs. Russell & Co., two fast and commodious passenger steamers. They are to carry freight and passengers to Shanghai, Tien-tsin, and thence back to Tamsui. There will be considerable competition in shipping with the established lines, which will reduce freights. Up to this time the English line of steamers has done the most of the carrying. Something has been done by German steamers.

All these improvements are mainly due to the pertinacity and progressive spirit of the governor. The Imperial Government has stood off and let Lin Ming Chuan have his way.

Possibly the Emperor desires in this distant island to test the modern schemes before embarking in them in China proper, or, more probably, the Imperial Government is awake to the value of Formosa as an outpost of the Empire, and is willing that the most energetic measures may be taken to secure protection to it.

Twatutia.—Twatutia is the residence of the foreigners. It is a third of a mile from Taipeifu. Here are the great hongs owned by representatives of several nations, engaged almost exclusively in the tea trade. Here the Russells have machinery for firing tea, the only machinery so used in China. The usual process is to dry the tea in baskets over pans of charcoal.

All the processes of curing and packing tea are done here with wonderful expertness. The wood for the boxes is imported from Amoy, but they are made in Twatutia. The process of making the lead boxes which line the wooden boxes is simple and effective. The lead in bars is melted in a crucible. When melted it is dipped out and poured between two stones on which there is a coating of felt. The stones are pressed together by hand and immediately opened and a thin leaf of lead is made. The leaf is cut into proper shapes and put inside the boxes. A man will make 1,000 sheets a day. The boxes are painted by hand.

I saw the process of making scented tea. Great piles of the white jasmine flower are put on the tea while it is being fired and then removed.

Twatutia numbers about a dozen foreigners, with a Chinese population of some thousands.

The Russells have a fine building, where my party were handsomely entertained by Mr. Frank Cass, the head of Russell & Co. at Amoy. There are several fine buildings in process of erection. The existing improvements ordinarily are in Chinese fashion and are plain. Of

course no English community is without a club. The one at Twatutia numbers thirteen members, including the absent and present. The club extended the usual hospitalities to us.

Messrs. Boyd & Co. have introduced at Twatutia silk worms and the manufacture of silk may become important, but it is now in its infancy.

Interviews with the governor.—On my arrival the governor sent cards. I notified him that I would call the next day, if agreeable to him. He immediately answered that he would see me.

The governor's Yamên is new, like the rest of the city, but on the general plan of such buildings. On either side of the main gateway were nondescript pieces of statuary, half dog and half dragon.

On the main gate were the usual pictures of Chinese gods.

The governor received me at the inner gates as I got out of my chair. I was attended by the officers I have mentioned, who were in full uniform.

The governor is fifty-three years old, is hale and hearty. He is a soldier, plain and blunt.

I said to him that I thanked him for his various courtesies to me since my arrival in Formosa and that I would take pleasure in reporting to my own Government and to the Tsung-li Yamên how handsomely and hospitably I had been received.

He said that my country and his had always been friendly and it afforded him great pleasure to see me; that I was the only foreign minister that had ever come to Formosa.

I said that the relations between Formosa and the United States were close; that we were her nearest neighbors, except Japan; that we took nearly all her tea; that having heard a great deal of the progress he was making in Formosa I desired to see the island.

He said he had done a great deal, but not as much as he wanted to do, because he was hampered for funds.

I then said I was gratified to know that some of our citizens had contributed to the progress and had been of some service in developing the island. He said that Russell & Co. had been of great service to him, and that Mr. Cass was a good man.

I said I was glad to know that the consul at Amoy had maintained friendly relations with him. He said yes, that the public business had always been satisfactorily attended to by Mr. Crowell.

Previous to this time I had introduced Captain Burwell to the governor, and the captain had presented the other officers to him.

I said that I supposed he had never before seen the American uniform, and I hoped he would never see it except on a peaceful occasion. He said China and the United States had always been friendly, and China would not permit any other relation than that of friendship to exist.

We were then escorted into a room in which a table was spread with the usual fruits and confections. Tea was brought to the governor, who received the cup in both hands and placed it at the plate of each guest. The governor first raised the tea to his lips and we did the same.

I was seated on the governor's right and the others in the order of rank. Wine was poured into the glasses. I proposed the governor's health, which was drunk standing.

A desultory conversation followed. The governor invited us to dinner at an hour to be fixed, according to Chinese fashion, by ourselves. Four p. m. the next day was agreed upon.

Before leaving I asked the governor to give me an interview in which I might talk to him about business matters. He agreed to do so. He

was throughout exceedingly cordial and frequently expressed his pleasure at seeing a minister in Formosa. He offered to put at my disposal a house for the officers, but this was declined.

On my return to my quarters the chief of the foreign office called. He has been in office during twenty-eight years in Formosa. He spoke in the friendliest manner of the United States, as, in fact, all the officials do, and I believe honestly. I returned this gentleman's call next day and was handsomely received and entertained. All the Taotais and local magistrates also called on me.

The governor returned my call in the afternoon. He was preceded by two officers and followed by a company of soldiers. He was placed on my right and I handed him a cup of tea with both hands. He told us about the aborigines; said they were to be found about 40 li (13 miles) from Twatutia; that he had conquered and subdued them. Parties of these savages are occasionally brought in and held a while, and clothed and turned loose, but the mass of them are as untamed as ever. They very much resemble our savages. They waylay and murder Chinamen whenever they can.

The general drift of our conversation was railroads. He made many inquiries about the system in the United States, and I explained it to him. He especially desired to know whether the Government built the lines, and was much interested in my explanation of the system in the West of voting aid to railroads by taxation. He inquired also as to the European situation and the probability of war. He was not well posted on foreign subjects, but, from occasional newspapers furnished him by the Russells, his acquaintance with such topics was above the average of Chinese officials. I renewed my request for a business interview at which he and I and the consul should alone be present. He seemed disinclined to regard my visit in any light but one of courtesy and friendship. I explained to him that when I formed the purpose of visiting Formosa I did not know of the pendency of any claim in Formosa in which my countrymen were interested, but that traveling in an official capacity, it was my duty when any matter of business affecting my countrymen was brought to my attention to properly consider it.

He conceded that this view was correct. I was with him two hours the next day discussing this matter. It was briefly this: The Russells had, more than a year ago, recovered judgment at Taiwanfu against a defaulting compradore for $40,000. There had been great delay in collecting the money.

He was anxious to demonstrate that there had been no negligence. He and I and the consul argued the question for two hours on one occasion and afterwards for three hours on another.

May 22 I and my companions dined with the governor. The dinner was partly Chinese and partly foreign. There were foreign wines in abundance and much jollity. The governor proposed the health of the President of the United States. I proposed the health of the Emperor and Empress of China. The governor brought his son, aged eighteen, into the dining-room and had him adopt my son as his elder brother, according to Chinese fashion. He gave frequent accounts of his life. He is a soldier, and not one of the *literati*. He was in the army at an early age and, at eighteen, commanded a company during the Taeping rebellion. He was not in much favor at court, and after the rebellion was put down he was left during fourteen years in obscurity. During the French war he was called to command in Formosa. He bought arms and ammunition with his own money. He defeated the French at Tamsui and saved the island.

He was exceedingly friendly to me personally and profuse in his professions of friendship to the United States. He expressed his intention to send me a large invoice of the finest tea, but this was declined with the statement that my Government did not permit its officials to accept presents from foreign officials.

The sulphur springs in Formosa.—Leaving Twatutia at 11 a. m. on the 23d of May, in a steam-launch, kindly loaned by the governor (and having a small boat in tow for landing or crossing the shoals in case we grounded), we proceeded down the Tamsui River 5 miles to mouth of the Kelung, and thence up the latter river about 3 miles.

Here we disembarked at a small landing on the right bank, and struck out on foot in a northeasterly direction, along the embankments of the paddy fields, for the distant hills, far up the side of which we could see the rising vapor from the sulphur springs, the object of our visit.

About 2 miles across the dead level of the rice fields we passed through several villages and the ascent began.

By rocky and difficult paths we commenced to climb. As we advanced we found that cultivation followed; every available spot was made to do duty. The rocky hill-sides were covered with the pine-apple plant, more favored spots with the tea shrub, while the steepest declivities were terraced with narrow shelves from top to bottom, and on these ledges were growing flourishing crops of the universal cereal, rice. The vivid green of the rice, just beginning to head, in contrast with the dark rocks and more somber verdure of the mountains made an effect most beautiful and strange.

We had gone but a short distance from the foot of the hills when we were met by the strong sulphurous odor of the springs, brought down by the breeze. In crossing a good-sized brook, a little further on, we found it almost boiling hot and were earnestly cautioned not to fall in while crossing, which intimation was hardly necessary.

About 2 miles of this upward work and we reached a rocky amphitheater, in the bottom of which were the springs.

Some scarcely came under the name of springs, as they were simply jets of steam and sulphurous vapor escaping from crevices in the rocks with a roar like that made by the escape pipe of some gigantic boiler "blowing off" steam through its safety-valve.

Others were bubbling caldrons of milky-looking water 2 or 3 feet in diameter, and one or two were nothing more nor less than boiling liquefied mud.

A little distance from the level floor of the amphitheater where the springs were, and perched among the volcanic boulders which covered its sides, were numerous little huts which were found to contain rude appliances for collecting the sulphur.

Here and there in the vicinity of the springs a few half-naked Chinamen were mining the sulphur stone left in by-gone ages.

When collected it is taken to one of the huts and boiled in small iron caldrons (of which each hut had a battery of three, roughly mounted in clay and stones) and more or less purified of dross, etc., by skimming and by allowing the heavier impurities to settle in cooling. After it cools the cake of sulphur and slag is lifted out of the pot and the sulphur separated from the latter. It is again heated and run into round molds about 12 inches in diameter by 8 inches deep. In this form it is carried down the mountains for shipment by coolies, a cake being suspended from each end of a bamboo bearing-pole.

It is impossible to ascertain the quantity of sulphur thus produced,

but it is necessarily very small. It is all shipped to China, most of it, if not all, going to Canton.

After lunch we retraced our steps, embarked, and steamed down to Tamsui, the sea-port at the mouth of the river.

Tamsui, Formosa.—Tamsui is the sea-port of the capital. It is 10 miles from Taipeifu, on the right bank of the Tamsui River. It has a troublesome bar, over which ships drawing more than 12 feet can not pass.

The foreign population numbers about a dozen people. The native population is about 95,000. The foreigners live on the top of a range of high hills. The native city is on the river bank and malarial fever prevails there. The only foreign physician in North Formosa resides at Tamsui. He visits Twatutia and Kelung. There is a missionary establishment here under the direction of the Canada Presbyterians. A Spanish Catholic priest has lately arrived. The governor, by the way, seems to identify the Catholics and the French. He said to me, "You have few Catholics in your country." I said, "You are mistaken; we have at least ten millions." He said, "Your people don't like the Catholics?" I said, "You are mistaken again; all religions are indifferent to my Government. We molest no man for his religous opinions. The Catholics in the United States are just as worthy, deserving, and good citizens as the Protestants. There is not a particle of difference made in the Government, or in society, between Catholics and Protestants." He seemed quite surprised at these statements.

The trade of Tamsui in 1887.—For reasons that will appear hereafter, I describe with some minuteness the trade of the chief port of northern Formosa.

Shipping.—The shipping is continually on the increase. The "Douglas" is the main line of steamers, but twenty-nine roving steamers entered Tamsui in 1887, bringing rice and sundry cargoes and taking away coal and passengers. Two other steamers under the British flag and seven sailing vessels entered the port. Here, as elsewhere, sailing vessels have decreased in number. One sailing vessel of 180 tons burden flying the American flag, entered Tamsui in 1887, but no steamer.

Value of the trade.—The gross value of the trade in 1887 was 5,641,990 Haikwan taels, being an increase of 74,000 taels over 1886. This increase is chiefly represented by the telegraph materials and machinery imported for government purposes. Rice increased as an import. Tea declined as an export in value, but not in quantity.

Foreign imports.—Opium imports increased. Opium was largely imported from Turkey. This opium can be divided in small quantities, while a ball of Benares opium can not be so minutely divided; hence it is popular.

Cotton goods show an increase of 10,000 pieces as compared with 1886. Japanese cloth has fallen away.

Forty-nine pieces of American drills, worth 400 taels, and 911 pieces of American sheetings, worth 2,004 taels, were imported.

In woolens and chiefly in lastings there is a decrease of 2,000 pieces.

Kerosene oil and Japanese matches have held their own.

Of native imports there were 65,000 piculs of rice, 11,500 piculs of beans, and 3,500 piculs of wheat in excess of 1886.

The increased importation of rice is due in part to the failure of the local crop and in part to the increase of population. Medicines, tobacco, and potato flour show an increase, while nankeens, sugar, and fans have declined.

Shanghai has largely increased her trade with Formosa. The total

increase at Tamsui is 264,000 Haikwan taels. The chief foreign imports from Shanghai were shirtings, Japanese cloth, iron ware, hardware, cement, machinery, and kerosene oil.

Tea.—The tea season opened May 6. In June the largest business was done. Exportation continued until December. The exportation to Amoy for the year exceeds that of 1886 by 5,000 piculs and that of 1885 by 4,000 piculs. This result argues well, chiefly for the growers and badly for the foreign merchants. Native packers and middle men have profited by the increase.

Camphor.—Under the auspices of the camphor office 2,500 piculs of this product have been collected and sent to Hong-Kong. A Cantonese firm takes this camphor at $12 a picul. It costs the Government $9 and sometimes $11 per picul to procure the camphor, so the profit is small.

Sulphur.—There has been considerable export of the product of the springs hereinbefore described.

In September a native firm contracted for one year to take 3,000 piculs for the Canton market at the rate of $3 per picul, the Government giving the sole right to sell Formosa sulphur at Canton. There has been some trouble, however, with persons claiming prior rights.

Coal.—The total amount of coal exported, including cargoes in junks, was 20,301 tons.

Cargoes have been obtained with difficulty. The out-turn of the Government mine above described has been 25 to 50 tons a day. The coal business under the new English engineer is improving.

Telegraph lines.—In addition to the telegraph lines from Tamsui to Sharp's Peak, from Taipeifu to Tamsui and Kelung, already described herein, Taiwanfu was joined to the Pescadores by a short cable.

It is believed that some advance has been made for trade among the tribes south of the To-ko-ham River.

Further details of the trade of Tamsui may be found in the annual "Returns of Trade Reports" for 1887 of the imperial maritime customs, which has been forwarded to the Department. My figures are taken from this report.

Some general observations.—Great Britain has a consul at Tamsui, Mr. F. S. Bourne, the gentleman who so actively assisted me in the Chungking difficulties two years ago.

Nearly the entire products of Formosa go to the United States. A peculiarly good feeling for our Government and people exists here.

It is worthy of serious consideration whether, in view of our intimate relations with Formosa, it is not advisable to establish a full consulate at Tamsui. The Department from this report and from other sources of information can determine this question.

Formosa is to-day the most progressive part of China. It comprises a body of land as rich as exists anywhere. Should the schemes of improvement now projected and in process of construction be succesfully prosecuted a vast impetus will be given to commerce. Conflicting ideas of national development now confront each other in the United States. Whatever views as to protection may be urged at home, it is impossible that the American abroad should not desire to see his own flag floating in every port and on every sea.

Facilities furnished by the establishment of consulates greatly contribute to national aggrandizement and to the furtherance of commercial interests.

In my opinion a United States consulate of equal rank with other consulates should be created for Formosa.

The governor has assumed vast responsibility. His operations in-

volve the expenditure of large sums of money. The system of taxation in Formosa has been primitive. She has been neglected by the imperial government and has been spared taxes which prevail on the main-land. It is now necessary to raise enormous sums by taxation. The land tax in China is being levied in Formosa. There will be opposition, riots, perhaps, and serious difficulties. From the energetic character of the governor, I argue success for him, but he may be involved in serious financial trouble. He already looks anxiously to the future.

He has contracted great liabilities. He has great difficulty in meeting them. He has embarked on a novel and adventurous career for one of his nationality. His course points to a revolution, which in its effects may control the destiny of China. Success for him means imitation on the main-land and an unbounded progress for the Empire.

The world at large must applaud his energy and pluck and wish him all manner of success.

The lekin question.—The necessity for raising money has driven and will still drive the governor to levying new lekin taxes. I thoroughly explained to him the position of foreign powers on the lekin question. I stated to him that under the treaties we would not pay lekin at the treaty port, nor would we pay lekin between the treaty port and the actual port of shipment. I told him that lekin, for instance, would not be paid between Twatutia and Tamsui; that China had stood by and seen foreigners invest enormous sums of money in places near to the treaty ports; that this money had been invested and trade had been prosecuted on the faith that only existing taxes would be collected; that China was by her consent and non-action for many years now estopped from levying new taxes; that it would be very easy to destroy all foreign trade by excessive taxation, and it would not be submitted to. He made a lengthy explanation of his views of the lekin question. I told him that the foreign powers could not take into consideration any of the inconveniences of collecting lekin away from treaty ports and contiguous localities; that we could only look at the treaties, and under our construction his propositions were inadmissible.

Map of Northern Formosa.—I append hereto a map of Northern Formosa. Upon this map are inscribed the names of the following valuable trees growing in Formosa: The camphor, the shaulam, the sasam, the su-te-cha, the lama, and katang, the pride of India, the oak, the rattan, and a great variety of bamboo.

The map will enable the Department to follow me in my trip across Formosa.

Macao.—The *Juniata* remained four days at Hong-Kong, and left for Macao the morning of June 1, and arrived at 11 a. m. the same day.

As soon as we arrived a steam-launch was sent out to the ship by the acting-governor, and put at our disposal. Captain Burwell, the secretary, and myself went ashore to call upon the acting-governor.

A salute was fired from the fort, a company of soldiers was drawn up on the quay, and a carriage awaited us. Mr. J. R. da Costa Duarte, the secretary-general and secretary of legation, acting-governor, received us with great politeness. We were escorted to the grotto of Camoens, and driven over the narrow limits of the Portuguese possessions.

I do not think the Portuguese officials are satisfied with the late Chinese treaty. They say that Macao has belonged to Portugal for three hundred years, that the recognition of her title to Macao is all that she got under the treaty. For this empty consideration she has agreed that Macao shall be an outstanding opium depot for China. Under

this treaty no opium can be sent from Macao to China without a certificate from the Chinese commissioner that duties have been paid. Just beyond the narrow peninsula on which Macao stands the Chinese custom-house is located, and watch is kept over dealers in opium.

It must be considered, however, that Portugal has set at rest a troublesome question. For many years she paid tribute or rent for Macao. Then she ceased to pay anything.

Canton.—June 5, I called on his excellency Chang Chih Tung, Viceroy of the two southern provinces.

I had notified him that I would call on him with the consul and my secretary for a business interview. I was received cordially, and after a considerable business discussion was entertained at dinner.

I talked with all possible plainness to the Viceroy. I stated to him that his conduct was in direct contrast to the treatment of the United States toward China. That since my appointment as minister three years ago we had paid, or were to pay, to China nearly a million dollars, whereas he had never paid a cent to our citizens. That I was sorry to learn that the goods of Americans were wrongfully seized for alleged evasion of lekin; that proper protection was not afforded to Americans; that their just claims were denied payment. I had to demand of him very plainly that he should take up and settle the pending claims of our citizens, particularly that of Dr. Fulton.

He made a general denial of all my statements as to wrongs and injuries except the non-payment of claims. He said he had promised me two years ago that there should be no riot, and he had kept his word; that he had not knowingly seized foreign goods for lekin; and that as for Dr. Fulton's claim, he had not paid it because the amount was not ascertained. He said Dr. Fulton had said he had lost very little property and now he had a large claim. I said it was impossible that Dr. Fulton should have made such a declaration; that he was a thoroughly honest man; and that, besides, it was exceedingly easy to have proof as to the actual loss and to decide on the evidence. He said the matter would be taken up and examined and he would do justice. He said that if foreign goods had been seized for lekin it was a mistake, and that as soon as possible such mistakes were corrected. It is true that the Viceroy lately paid Russell & Co. the full value of some kerosene oil that was seized by the lekin authorities.

Mr. Seymour then read a lengthy paper, stating item by item the grievances complained of. The viceroy promised to consider all the complaints and to do justice.

The point of the obstruction of the Canton River was presented by us. The Viceroy did not then give any assurance that he would remove the obstructions, but I have lately seen it stated that he has ordered their removal on the ground that they produce floods.

The above is the substance of an interview which lasted about two hours. Two days afterwards the Viceroy was entertained by the consul. Several of the officers of the *Juniata* were present. The conversation was chiefly on modern naval improvements, in which the Viceroy is much interested.

In the report of my visit to Canton, as to other places, I intentionally omit an account of my visits to the missions. They were fully described in the report of my tour made two years ago.

Foo-Chow.—The *Juniata* put into the Min River, on which Foo-Chow is situated, June 12. Consul Wingate soon arrived in a steam-launch, and we proceeded from Pagoda Anchorage to the city.

I called on the Viceroy, and he returned my call. There was no busi-

ness with the Viceroy awaiting me. Our conversation was general and very friendly.

Mr. Wingate successfully manages the business of this consulate, generally without any appeal to the legation.

There may be questions arising out of the looting of the *San Pablo*, but it is unnecessary to state them until they are formally presented to me.

One of my reasons for going to Foo-Chow was to obtain information as to the conduct of the Chinese officials at the time of the wreck of this ship. I found that the Chinese authorities had promptly sent a steamer to the wreck, but the people of the vicinage had, before its arrival, looted the ship. It is likely that I will bring the general question of protection to wrecks before the Yamên, with the view of securing regular methods of procedure when ships are wrecked, and holding the local authorities responsible for damage. A very good system now prevails in the province of Shantung. It should be extended to all the coast provinces.

Shanghai.—The *Juniata* reached Shanghai June 18.

At Shanghai, as elsewhere, the local officials called with many expressions of good-will, compliments to our distinguished consul-general, and lavish offers of entertainment.

Among the many matters of business discussed with General Kennedy there is but one which I particularly desire to bring to your attention.

The case of Arlington.—During my stay in Shanghai one Arlington, an American, was charged with taking indecent liberties with little girls in the public gardens. The peculiar atrocity of this crime awakened great indignation and there was serious talk of lynching.

Having heard the circumstances from the witnesses, I advised his prosecution for an assault and battery with intent to commit a rape. To this charge he pleaded guilty, and was sentenced to imprisonment at hard labor for four years.

The insufficiency of our criminal system in the East generally and in outlaying countries was never better shown than by this case. The criminal jurisdiction of the consul is first statutory. But the United States code provides no punishment for this or any other offense, except offenses against the United States.

The ordinary criminal jurisdiction belongs to the States and the Territories. The criminal jurisdiction is, second, common law.

But the common law in England has long since been superseded by act of Parliament. That portion of the common law which prevails in the United States antedates the Revolution. It was necessary in this case to go back to a time prior to the Revolution to find a definition of the crime and its punishment. We found, or thought we found, that the punishment in such cases was left to the discretion of the court. Public opinion and justice demanded a heavy punishment. We did the best we could.

The remedy for this anomalous condition of things is so simple that I most seriously recommend its adoption. It would be the simplest piece of labor to draw a bill providing that if any American shall commit any defined offense in China, Japan, Siam, Corea, or any of the islands in the East, or in any uninhabited country, he shall be punished as enacted. Congress would certainly pass such a bill and the consuls and legations would readily and easily enforce its provisions.

As the minister of the United States is denied power of legislation,

the only possible solution of a great and growing difficulty is the one stated. I commend the subject to the careful consideration of Dr. Wharton. It is worthy of his distinguished pen.

In this general report I do not deem it necessary to discuss elaborately the questions involved, but may do so hereafter in a separate dispatch.

During my stay in Shanghai the *Juniata* fired a salute of twenty-one guns for the Emperor William, of Germany, and I attended the funeral obsequies of the late Emperor Frederick.

Tientsin.—July 1 I called on the Viceroy Li Hung Chang. He had been sick for twenty days and received me as a special mark of favor.

Here, again, there are no questions pending requiring my interposition. The Viceroy is intelligent, has experience, properly esteems foreigners and no difficulties worthy of mention occur in his province.

As he and I are old friends our interview was very friendly.

I inquired whether the railroad would go from Tung-chow to Peking. He said that it was not certain that it would be extended to Tung-chow; that there was opposition to it.

He then inquired if I knew the minister to Corea and what his rank was. I said he was minister resident and consul-general. He said he meddled in things that did not concern him. I said that I thought that an investigation of his conduct would disprove that assertion; that men were often accused of participating in schemes of which they had no knowledge; that Mr. Dinsmore stood well with everybody who knew him, and that I believed him to be prudent and discreet; I had never known that in any public act he desired anything more than that Corea should observe her treaties, and that our citizens should be protected in their treaty rights.

Concluding observations—I desire to return thanks to Admiral Chandler for the use of the *Juniata*, and to Lieutenant-Commander Burwell and his officers and crew for their uniform kindness and for substantial assistance furnished me in the prosecution of my trip. I found on this tour, as before, and as I believe I will always find, that the American naval officers are accomplished, educated, and agreeable gentlemen.

It is, possibly, not within my purview to make any suggestions touching the Navy, but an extended experience has satisfied me that the Government should have on this station at least two small-draught steamers, capable of going to Canton, Tientsin, Shanghai, and, in fact, to all the chief cities in China. Nearly all the principal treaty ports are situated on rivers. These ships should be fast and modern in their appointments.

On proper request one of these ships should be put at the disposition of the minister for trips to the ports.

I am satisfied that ministerial tours are productive of great good. They display the flag; they serve to introduce naval officers to the best Chinese and foreign society; they enable the minister to keep thoroughly posted on the wants of the foreign population; they create friendly feeling between the Chinese officials and the foreigners. For the Navy and the minister there can be no better disclipine.

I have, etc.,

CHARLES DENBY.

No. 222.

Mr. Denby to Mr. Bayard.

No. 671.] LEGATION OF THE UNITED STATES,
Peking, July 20, 1888. (Received August 29.)

SIR: I have the honor to inform you that negotiations are pending here for the extension of the China railway from Tientsin to Tung-chow, a place about 14 miles from this, on the terminus of the Peiho River. The line from the Kai Ping mines to Tien-Tsin is nearly completed, and the directors are very anxious to extend the company's operations in the direction of the capital.

It is rumored that there is some opposition in official circles against the project, but it is believed that the negotiations will be pushed to a favorable result on the arrival of the newly appointed provincial judge of Chihli (who is interested in the company) for audience of the emperor.

I understand that the proposed line has been surveyed by competent engineers, and it is only necessary to get the sanction of the emperor, when work will be commenced and pushed on with energy.

I have, etc.,

CHARLES DENBY.

No. 223.

Mr. Denby to Mr. Bayard.

No. 672.] LEGATION OF THE UNITED STATES,
Peking, July 20, 1888. (Received August 29.)

SIR: The feeling and interest displayed by the Chinese in the matter of developing the mining resources of this country have received quite an impetus during the past two years. China is beginning to realize the importance of, and the advantage that will accrue to the Government and people by, the utilization of her mineral wealth, and it is not infrequent that we hear of proposals being made by the high authorities to the throne for permission to open and work mines.

Recently a memorial was presented to the Emperor by Tang Chuing, director of mines in Yunnan, upon the subject of copper mining in that province. The memorialist reports the measures which he has taken for developing the mining industry of certain districts in Yunnan. He states that toward the end of last year he started for Chaotung and on his arrival there he found some Japanese mining engineers awaiting him. Accompanied by them he went over all the hills in the district, making a tour which lasted three months.

Rich seams of ore were found at several places. Lead was found in abundance at a place called Wei-Ming. Mining establishments were started at all the places named under the charge of a public mercantile company, and in outlying points where the company could not start operations the natives were allowed to open mines on their own account. The company was to purchase the out-turn of these mines at certain fixed rates, and, to prevent smuggling, the miners were not authorized to establish smelting furnaces. The memorialist goes on to say that mining, smelting, and all other operations were at first to be conducted on the native principle, but if this proved unsuitable an admixture of

western systems was to be introduced. A worthy object cited by the memorialist was to give employment and support to the needy population. Every care was taken to provide for the comfort of the miners and the maintenance of discipline among them, and secret societies and sworn brotherhoods were strictly forbidden. As soon as success was secured for the enterprise in the east of Yunnan operations would be extended elsewhere.

There is one difficulty, cites the memorialist, and that is all the mines alluded to are new ones, and he learnt from the Japanese engineers that it was only by sinking to a depth of 400 or 500 chang (a chang is 10 Chinese feet) that they could be worked on a large scale. The work is so hard that unless foreign machinery is employed no result could be obtained for eight or nine months.

The memorialist concluded by saying that he will urge the company to use its utmost efforts to obtain successful results at the earliest possible date.

I have, etc.,

CHARLES DENBY.

No. 224.

Mr. Bayard to Mr. Denby.

No. 338.] DEPARTMENT OF STATE,
Washington, July 25, 1888.

SIR: I have to acknowledge the receipt of your dispatch, No. 646, of May 26 last, in regard to the exclusion of Chinese from Australia.

Your dispatch is interesting in its bearing on the general problem of Chinese emigration and the competition of Chinese with domestic labor, which appears to demand an effective solution in other countries besides the United States.

I am, etc.,

T. F. BAYARD.

No. 225.

Mr. Denby to Mr. Bayard.

No. 678.] LEGATION OF THE UNITED STATES,
Peking, July 30, 1888. (Received September 11.)

SIR: I have the honor to inclose a translation of an edict recently promulgated by the Empress Regent, having relation to her retirement as director of the Government, after the marriage of the Emperor, which will be celebrated some time during the month of February next.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 678.]

AN EDICT ISSUED BY THE EMPRESS REGENT, PUBLISHED IN PEKING GAZETTE, JULY 27, 1888.

Inasmuch as when the Emperor first assumed the reins of Government there would be questions arise that might cause His Majesty some hesitancy as to the means to be

adopted to meet them, we could not refuse to offer our advice when occasion made it necessary, and we therefore felt constrained to yield consent to the entreaty of our servants of state to continue the direction of government for some years.

During the past two years His Majesty has devoted his leisure hours in continuing his course of instructions, and has shown skill and cleverness in the advancement of his education.

In the matter of governmental questions whether important or otherwise, His Majesty has proved himself competent to determine the *pros* and *cons* as they arise, and to deal with them in a manner befitting and right. To us this is a source of great joy.

His Majesty will enter the bonds of matrimony some time during the first moon of next year (about February), and he should thereupon assume the entire charge of the administration of government, thus satisfying the aspirations and hopes of our ministers and the people of our Empire.

Let the board of astronomy reverently select an auspicious day during the second moon of next year (March) for our retirement and report to us.

Respect this.

No. 226.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 681.] LEGATION OF THE UNITED STATES,
Peking, August 3, 1888. (Received September 20.)

SIR: It is not within my province to comment on your official acts favorably or unfavorably; still you may not consider it improper for me to express my complete approval of the treaty with China lately negotiated by you.

Comment has been made here why the right of settling in the interior was not secured to Americans. The answer is plain. As long as the foreign powers conserve the right of exterritorial jurisdiction China can not, in its length and breadth, be safely thrown open to foreigners for permanent settlement. It is impossible to provide in the interior the machinery necessary to enforce the laws of the various nations of the world.

The necessity for legal tribunals to settle ever-recurring disputes in civil matters between the subjects of the various nationalities and between them and the Chinese is apparent. It is indispensable also that crime should be punished. Difficulties continually arise at the treaty ports touching the treatment of foreigners who are not represented by consuls. These difficulties would become insuperable if foreigners were permanently settled all over China.

The missionaries who have put into practice the assumed right of permanent settlement are not engaged in business and therefore rarely come in conflict with the Chinese.

It is worthy of remark that the only noticeable new clause in the Portuguese-Chinese treaty of December, 1887 (see Art. XVI), is this one:

> It is understood, however, that the shops or warehouses above mentioned shall only be allowed at the ports open to trade, but *not at any place in the interior.*

The action of Australia antagonistic to the Chinese immigrants which followed the negotiation of the late treaty with the United States has also given rise to comment.

The condition touching Australia differs materially from that relative to the United States, under which that treaty was negotiated. China was not at all disinclined to agree to the provisions of exclusion therein

incorporated. Her action was put on the basis of protection to her people, which could only be secured by their exclusion from the United States. But China covets Australia as a home for her emigrants. A late commission which visited that country made glowing reports as to the condition of the Chinese. It proposed to establish consulates in Australia. It made no serious objection as to the treatment of the Chinese. It merely suggested proceedings to secure the abolition of an obnoxious poll-tax on landing.

The object of China as to Australia was to facilitate emigration. Her object in dealing with us was to prohibit it. She now finds herself, to her surprise, confronted with the same active antagonism in Australia which meets her in our own Western States.

I have, etc.,

CHARLES DENBY.

No. 227.

Mr. Denby to Mr. Bayard.

No.682.] LEGATION OF THE UNITED STATES,
Peking, August 7, 1888. (Received September 20.)

SIR: I have the honor to inclose herewith a translation of a memorial from the governor of Shantung, covering a set of regulations for the protection and salvage of vessels on the coast of that province.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 682.]

Memorial of the governor of Shantung, inclosing a set of regulations for the protection and salvage of vessels on the coast of that province.

[From Peking Gazette, May 21, 1888.]

Chang Yao, the governor of Shantung, submits a memorial, in which he incloses for imperial sanction a number of regulations which he has had drawn up for the protection of vessels that may meet with casualties on the coast of the province.

The *Pautah*, a steamer belonging to the China Merchants' Company, struck some months ago on a rock off the Chefoo promontory, and having become a total wreck was plundered by the villagers in the neighborhood. In the report which the governor forwarded to the throne, he dwelt upon the necessity of devising some measures for the protection of vessels meeting with such mishaps in the future, and stated that he was in consultation with Li-Hung Chang, the northern superintendent of trade, as to the advisableness of drawing up a code of regulations which might prevent a repetition of such a serious offense on the part of the villagers and might save traders from being exposed to such harm in future. The memorialist observes that the coast-line of Shantung province is dotted over with islands and studded with rocks, among which passing vessels, if they happen to meet with a fog, are sure to lose their way and become stranded. The people along the sea-board make use of such occasions to commit indiscriminate plunder. When a vessel is completely wrecked the islanders, who are quite at home in the water, and set little store by their lives, dive down and bring up the cargo. This might be excused, but it is intolerable that they should, as they often do, board, plunder, and break up a ship that is merely stranded, and even take human life in their passion for gain. The shipping interests are generally represented by people from other provinces, who shrink from legal proceedings. The result is that such cases are, for the most part, not reported, and when they are the authorities pass them over without making too close an inquiry. In course of

time the habit has developed into an established custom, and wrecking has become a recognized profession. So bad is it that vessels which have been disabled do not venture to approach the shore, and become total wrecks in consequence. The evil is one which is common to all the islands along the coast, but owing to the dangers of the navigation the Shantung promontory has obtained a special notoriety for wrecking.

In 1876 the Tsung-li Yamên drew up under imperial sanction a set of rules for the protection of distressed ships, whether Chinese or foreign, a copy of which was sent to Shantung and embodied in regulations issued under the instructions of the then governor, Ting Pao-chen, by all the local authorities along the coast.

The rules in question were very complete and exhaustive, but they were not efficiently carried out, and in course of time they came to be regarded merely as waste paper. It is extremely desirable that they should again be promulgated, and that the whole matter should be put on a proper footing.

The Taotai has accordingly, in compliance with the governor's instructions, drawn up a new code of rules in six clauses, based upon the old ones issued by the Yamên, with such modifications and additions as the lapse of time and local circumstances seemed to require. The new rules have been examined and approved by his excellency Li-Hung Chang, who joins the memorialist in submitting them to the throne for the imperial sanction. A copy has at the same time been forwarded to the Tsung-li Yamên and to the board concerned.

A rescript appended to this memorial directs the Yamên concerned "to take note."

The inclosure to the above memorial did not appear in the Gazette, but was subsequently published by the native press in Shanghai and Tientsin.

[Inclosure 2 in No. 682.]

Abstract of rules drawn up for the protection and salvage of vessels on the coast of Shantung.

I. Division of the Coast Line into Sections for the Purpose of Defining Responsibility.

The islands along the coast lie so thickly dotted about and so closely interlaced, that unless boundary lines are closely determined responsibility can be readily evaded. It will, therefore, devolve upon the Taotai at Chefoo to send a commission composed of competent officers to fix, in concert with the civil and military authorities, the limits of their respective jurisdictions. Each section shall comprise a distance of 10 li, and shall contain a station in charge of one marine officer and two superintendents, all of whom shall be recommended and vouched for by the respectable people of the neighborhood, and also by the authorities of their respective districts. A flag-pole will be erected in front of each station, which will fly a flag by day and show a lamp at night as signals for the benefit of ships in distress. All the boats in each section will be marked and numbered, and a list of them and of the names of their owners will be registered in a book kept for the purpose. Each boat will be furnished with a certificate bearing an official seal and containing a copy of these regulations. When their services are required each boat will during the day be furnished with a flag bearing a device to the effect that it is to protect merchant ships and strictly prohibit plunder. By night each boat will exhibit a light as a signal to vessels in distress. Ships, Chinese and foreign alike, which have struck upon a rock, gone ashore, or met with any other casualty, should fly a flag by day and exhibit a lamp by night as a sign that they require assistance. On seeing such a signal the people and fishermen in the neighborhood should go at once and report the fact to the nearest station. The latter will then dispatch boats to the rescue, and will send messengers to report to the civil and military authorities. Should the vessel in distress be a large one, and the boats in the district be insufficient for purposes of rescue, then the authorities may apply for assistance to a neighboring station; but under ordinary circumstances, no station can interfere beyond its jurisdiction. When the civil and military authorities receive information of a casualty they shall proceed to the spot with a force of soldiers to afford protection.

The coast along the Jung-Ch'êng districts presents such dangers to navigation and is so distant from the provincial capital, that there is difficulty in exercising adequate control over it. The Taotai at Chefoo has, therefore, been empowered to establish a head protection office in the very center of it, in charge of a deputy and one or two respectable members of the gentry, to whom all the other stations shall send their reports. The salary of the deputy and the other expenses of the office shall be defrayed

from the expenditure fund of the foreign customs, and the scale of rewards and fines shall, after each occurrence, be determined by the deputy in consultation with the magistrate of the district.

II. Rewards and Penalties Prescribed as a Means of Preventing Evasion of Duty.

The Taotai at Chefoo will be made responsible for furnishing detailed reports of all cases in which ships have been rescued or cargo salved under these rules by the civil or military authorities along the coast. Occupants of inferior posts who have rendered good service will receive better appointments, and those whose posts are good will be recommended for promotion to a higher grade in the service.

Short-comings will be punished by marks being placed against the offender's name on the official record, or by his removal from office, according to the degree of their gravity. The prevalence of wrecking on the Shantung promontory adds greatly to the difficulty of the lack of affording sufficient protection to ships. Officers, therefore, holding substantive appointments, within whose jurisdiction no case of wrecking shall occur for a period of three years, will be transferred to better appointments, and acting officers, whose jurisdiction may be exempt from such cases for one year, will receive one term of a good acting appointment. The superintendents of the stations, who may be reported by the local authorities as having done really good service, will, on the first occasion of the kind, be entitled to apply for buttons and honorary tablets, and on the third occasion will be advanced to official positions. Cases of neglect of duty will be punished by removal from office or a slight fine. Should the superintendents of station be found to be implicated in acts of plunder they shall be dealt with as principals in the crime. Persons who are the first to give information to a station of a ship being in danger shall be entitled to the first place in the order of merit. This reward in the case of a large ship shall be as high as 30 taels, and in the case of a small one shall be limited to 10 taels. If the captain has no means of defraying the amount it shall be paid out of the funds of the office, and if these are insufficient it will be advanced by the local authorities, to be repaid to them by the Taotai of Chefoo.

III. Rules Laid Down to Prevent Confusion.

The accidents which befall vessels in distress are of various kinds and of different degrees of gravity. Vessels that are merely leaky, and whose cargoes admit of being salved, should fly a white flag during the day and exhibit two red lamps by night, on seeing which the nearest station will send off one or two boats with all speed to make inquiries. They will not be allowed to board the vessel or to cause her any inconvenience. If the captain wishes to have the cargo removed he will be at liberty to make use of as many of the boats as he pleases for the purpose. The station will send men to take charge of it, and when the work is completed the captain of the vessel and the superintendents of the station will decide upon a fair and equitable remuneration for the work, which at most must not exceed a fourth of the value of the cargo salved. If the captain does not wish to have the cargo removed and the boat people swarming on board proceed to do so without authority, it will devolve upon the local authorities to have them arrested and severely punished.

Should a vessel have sustained serious damage and be in imminent danger, she will, if it be day-time, fly a black flag, and will, if it is night, exhibit two green lights, on seeing which the office will send off with all speed a number of boats to her rescue. It will be for the master to indicate whether the safety of the ship, the cargo, or the crew should be first attended to. The salvors will not proceed to act of their own motion. Should any of the cargo that has been sent ashore be removed elsewhere or stowed away in hiding, the depredators will, on discovery, be obliged to restore the plunder and be punished for the crime of taking advantage of danger to commit robbery. Ruffians who, in their passion for gain, take human life or break up vessels in distress, will be immediately bound and forwarded by the superintendents of the stations to the local authorities for punishment. Should the superintendents be found to have been in collusion with such persons, they too will be arrested and placed in confinement. Persons who bring false accusation will take the place of the accused.

IV. Award of Gratuities as an Encouragement to Exertion.

All property salved must first be inspected by the local authorities, and, in the event of the property being foreign, its salvage must also be reported to the nearest consul, who will examine it in conjunction with the local officials. An estimate having been made of its value, a certain portion thereof shall be appropriated for rewarding the

salvors. The amount shall be determined by the value of the property saved and the difficulty experienced in its salvage.

The rewards shall be divided into the following four classes: Where the work of salvage has been difficult, but the amount of the property recovered is small, one-third of it shall be apportioned as the reward of the salvors. Where the salvage is difficult and the amount of the property large, or where the amount is small and the salvage easy, the reward shall be one-fifth. If the property has been under water and has been rescued at the risk of life, the salvor shall be assigned two-thirds of it as a reward for his services, the other third remaining the property of the captain.

The superintendents of the stations shall furnish the local authorities with lists of all the rewards assigned for salvage purposes.

As stations have to be established and their staffs can not perform their duties without some means of support, one-tenth of the above rewards shall be appropriated for their maintenance. In saving life also the difficulty or easiness with which it has been effected will be taken into account in determining the reward; 5 taels will be given in the one case and 10 taels in the other. If the individual himself has no means, the amount will be advanced in the first instance by the local authorities, to be re-imbursed to them by the Taotai at Chefoo from the expenditure fund of the foreign customs. If only cargo and no people have been rescued, a report should be sent to the nearest local authority, as also to the consul, who will together decide upon a fair amount of reward. In the case of the rescue of individuals and no property, they must, whether they be Chinese or foreign, be provided in the first instance with food and clothing and sent to the nearest local authority or consul, who will provide them with a passage or an escort, as the case may be, and funds to take them to their native place. In the case of foreigners who have no consuls to take charge of them, a report will be sent to the trade committee, who will provide them with funds to enable them to return to their own country. When, owing to the roughness of the sea and the fury of the elements, or the fact that the casualty occurred in mid-ocean, human help is of no avail, every one must submit to the will of Heaven, and reckless charges of negligence must not be indulged in.

V. Notices to be Widely Posted by way of Encouragement and Warning.

The ignorant people along the coast, not knowing that they will be rewarded if they rescue vessels and be punished if they fail to do so, maintain an attitude of indifference, and occasionally even go to the length of plundering vessels when they are wrecked. It is essential, therefore, that these regulations should be drawn up in a printed form, and that a copy should be supplied to every boatman and resident along the coast. A register of the names of the persons to whom such documents have been issued will be kept at each station, and when a casualty occurs flags, lamps, etc., will be issued to holders of these certificates, and to no one else. The certificates will be sealed by the Taotai and counter-sealed by the magistrate and the superintendents of the stations. This will teach the people the importance which the authorities attach to the work of protection, and may prevent them from again transgressing the law. Henceforth district officers will be bound within a space of five days from the time of the occurrence to forward periodical reports to the Taotai or prefect of all casualties happening within their districts, stating whether rescues have been effected or not; whether rewards have been granted under these regulations; whether plunder has been committed; and whether any charges have been made by the captain or other persons. Forms for filling up these reports will be issued by the Taotai, and concealments or omissions will be punished.

VI. Re-inforcement of the Naval Force with a View to Securing Adequate Protection.

The custom of wrecking has become so deeply ingrained in the natives of Jung-Ch'êng, that the ordinary military establishments are quite unable to suppress it. There are four war-junks in Teng-Chow and Jung-Ch'êng. These will be placed in command of the major of the Le Ch'êng battalion, and, with the two vessels at present under his control, will be divided into two squadrons, one stationed on the island of Mo-ya, to watch the southeast section of the coast, and the other at Lung-hsü, to guard the northeast, both being in readiness to proceed wherever a call is made upon their services. Ch'êng-Shan and Mo-ya Island are both already provided with lookout men. In the Jung-Ch'êng district there are twelve rocky islets, on each of which a lookout man will be stationed, in charge of lamps, flags, and other appliances.

No. 228.

Mr. Denby to Mr. Bayard.

No. 685.] LEGATION OF THE UNITED STATES,
Peking, August 12, 1888. (Received October 8.)

SIR: I have the honor to make herein some observations on certain questions of Chinese law. I receive frequent letters touching these subjects. Possibly the subjoined abstract may serve the purpose of my correspondents.

Descents.—Primogeniture does not exist, except that there is hereditary succession of certain ranks and dignities. The persons inheriting the family property are all the sons, whether born of the principal or inferior wives. Division is made by *stirpes*, the grandsons taking the father's shares. Daughters do not inherit. If they are married, they get nothing; unmarried, a sum is provided for their marriage expenses. The unmarried daughters remain with the eldest son. For this reason his share is sometimes larger than that of his brother. If there are no male heirs, and no successor has been adopted, the daughters divide the inheritance. In default of lineal heirs, collaterals inherit. An estate is not forfeited to the Government as long as any relatives of the decedent remain. Collaterals so inheriting are bound to the worship of ancestors and taking care of the family tomb.

Wills.—The system of bequeathing property by will does not generally exist. Wills are sometimes made by wealthy persons in order to save litigation, and are acquiesced in by the heirs. But the law provides what disposition shall be made of the property of a decedent.

There is no fixed form for wills. The signature of a testator to a written will would be sufficient. The wishes of the testator may be verbally expressed to the family.

A will made in a foreign country is held good in China as to property there situate belonging to foreigners.

Probate courts.—Probate courts do not exist in China. Documents devising property are retained by the legal heirs.

Ownership of lands.—Theoretically the land belongs to the Emperor; practically, the holder has all the rights of conveyance and mortgage which exist elsewhere.

There have been cases where the Government has taken property without compensation, but ordinarily an assessed valuation is paid when land is taken for public use.

The land tax is one of the most important taxes. If that is regularly paid, the owner is secure in his possesions.

Conveyances.—On the sale of land the old deeds are transferred to the purchaser. A new deed is made, which is acknowledged and sealed by the magistrate of the district, who keeps a record of the transfer.

Leases are in writing.

Marriages.—No marriage certificate issues. Section 101 of the code contains minute rules as to the contraction of marriage. The first or principal wife is usually chosen for the husband by his parents or senior relations. She is supposed to be his equal in rank. She acquires all the rights and privileges which in Asiatic nations appertain to a wife. She can not hold separate property free of her husband's control.

Other wives may afterwards be taken, as the man pleases, with few ceremonies and without regard to rank. The secondary wives are subordinate to the first wife, but equal among themselves. They are called

inferior wives and not concubines. Their children are legitimate. There is no limit to the number of secondary wives.

Majority of infants.—Practically, during the life-time of the parents they control the child at pleasure.

Naturalization.—There is no law on the subject, but in practice foreigners may place themselves under the protection of Chinese law.

Courts of justice.—The lowest court is that of the district magistrate; the next is that of the prefect; the third, that of the Taotai; the fourth, the provincial judge.

Appeal is allowed from a lower to a higher court, from district to department. It is sometimes allowed to the governor and the governor-general and then to Peking. The magistrate is called "the parent of the people."

Attorneys are not employed in legal proceedings.

The highest court in the Empire is the Hsing Pu, or tribunal of punishments. The Emperor very rarely overrules its decisions.

There are separate judicial tribunals for the members of the banner corps, the imperial clan, and the imperial household.

Here is also a grand court of revision, which exercises general supervision over the administration of the law.

It is scarcely necessary to remark that under the treaties with China the foreign powers administer their own laws in the consular courts. The nationality of the defendant determines the jurisdiction of the consul. A person is sued before and tried by his own consul and according to the laws of his own land.

In what I have written I have given the law as affecting Chinese only.

I have, etc., CHARLES DENBY.

No. 229.

Mr. Denby to Mr. Bayard

No. 686.] LEGATION OF THE UNITED STATES,
Peking, August 16, 1888. (Received October 8.)

SIR: I have the honor to state that the imperial board of astronomy has reported that the third day of the second month of next year (March 4, 1889) is an auspicious day for the assumption of government by the Emperor in person.

That day has accordingly been fixed by the imperial decree for this ceremony.

I have, etc., CHARLES DENBY.

No. 230.

Mr. Bayard to Mr. Denby.

No. 343.] DEPARTMENT OF STATE,
Washington, August 18, 1888.

SIR: I herewith transmit, for your information, a copy of my note* to the minister of Germany at this capital, dated the 17th instant, ac-

*Mr. Bayard to Count Arco Valley, August 17, 1888, with inclosures, printed as Doc. No. 497 *post*, page 683.

companied by a memorandum embodying the Department's views touching the validity of marriages in China between subjects of that Empire and foreigners.

I am, etc., T. F. BAYARD.

No. 231.

Mr. Denby to Mr. Bayard.

No. 690.] LEGATION OF THE UNITED STATES,
Peking, August 22, 1888. (Received October 8.)

SIR: The information has reached Peking that the whole of the new embankment made at Chêng Chow, on the Yellow River, has been carried away. The cost of this work was 9,000,000 taels, and this sum has been wasted. Eight thousand lineal feet of river-wall had been completed; not an inch remains. It is reported that 1,000 laborers were drowned by the latest flood, only a few days ago.

By a late decree the Emperor degrades the director-general of the Yellow River, Li Hung Tsao, and several of his subordinates, and punishes nearly every one connected with the work. The workmen, 80,000 in number, are to be paid off and dispersed, and the work is suspended for the present.

There are no native engineers worthy of the name, and pride prevented the employment of foreign engineers. The methods used to repair the breach were piling and then raising a structure of cushions of millet stalks with mud in rice sacks. The action of the water has created a basin 60 feet deep around the breach, and it is impossible, with the means used, to close it. It is known that the water of the Yellow River is encumbered with silt, and, being unable to cut a way to the sea, the banks for hundreds of miles are in danger.

It is contended by competent foreign engineers that no merely local reparation of the banks will accomplish any good results. They claim that in existing conditions the river-bed will rise continually and the banks must be continually raised, and that breaks will occur at weak spots in spite of all local work.

They propose many schemes, such as the creation of vast lakes, as reservoirs, in which to store the surplus water, and canals to divert it. But there has never been a scientific survey made, and the Chinese Government has no plan except to repair the banks in the manner stated. It naturally fell back on the system of punishing the officials.

Honan, one of the most valuable provinces, which has always filled an important part in Chinese history, is ruined. Should relief ever come to it, it will probably be found that the sand has destroyed the soil for agricultural purposes. This has been the effect in certain overflowed districts in Shantung. The province of Anhin is nearly submerged. The cities and villages in these provinces are tenantless, and the people are drowned or scattered. Other damages are apparent. The silt-laden waters of the Yellow River, now entering the Yangtze, will, it is feared, create shoals and destroy the navigation of that great stream.

China does not want for a host of advisers. It is said that five hundred different plans have been submitted to prevent overflows. Every newspaper teems with contributions to this species of information. Every syndicate has its engineers ready with a plan of action. But from

time immemorial China has borne this "sorrow," and she does not seem willing to adopt radical measures of treatment.

Meantime the Yellow River must for the present keep its new course. It would seem to be the best plan to allow it unmolested to continue its present route until some radical measure of restraining it shall have been adopted.

I have the honor, etc.,

CHARLES DENBY.

No. 232.

Mr. Denby to Mr. Bayard.

No. 691.] LEGATION OF THE UNITED STATES,
Peking, August 24, 1888. (Received October 8.)

SIR: I have the honor to inclose herewith a copy of a letter received from Rev. Gilbert Reid. It will be seen that the Chinanfu troubles are in process of settlement.

These troubles have been the nightmare of the newspapers for a year and more. I am sincerely glad that time seems likely to vindicate my judgment and conduct, and that my fellow-citizens, if they do not ask too much, will succeed in their wishes.

I have the honor, etc.,

CHARLES DENBY.

[Extract from No. 691.]

Mr. Reid to Mr. Denby.

CHINANFU, *August* 2, 1888.

SIR: It gives me great pleasure to write you that your dispatch to the Tsung-li Yamên in June last proved a most opportune assistance. The Yamên's order to the governor, referring to your dispatch, instructed the local authorities to see and consult with me and to effect an exchange of property. After various attempts to induce me to consult with certain deputies specially appointed, or to ask for an interview, the acting Taotai sent his card, requesting me to appoint a time for an interview at his Yamên.

At the conference thus secured there was present the Taotai himself, supported by the prefect, magistrate, and the two deputies. The three main points of consultation were, first, possession of property; second, punishment of the guilty parties who instigated the riot; third, some form of compensation for the insults and injuries received. These points, along with the matter of seeing the governor at some proper time, are to be referred to the governor, and on receipt of instructions the Taotai will give me a reply. I, in turn, will inform the legation.

It is the desire of the official to postpone the matter till after the great examination in September.

The reply of the Taotai will give particulars.

I am, etc.,

GILBERT REID.

No. 233.

Mr. Bayard to Mr. Denby.

No. 346.] DEPARTMENT OF STATE,
Washington, August 27, 1888.

SIR: I have received and considered your No. 659 of the 9th ultimo, concerning the status of Chinese women married to aliens and citing

the agreement between Mr. von Brandt, the German minister at Peking, and the Tsung-li Yamên, by which Chinese women married to Germans are to be subject to the jurisdiction of their husbands' nationality.

Your statement throws light upon the inquiry made here a few days since by the German minister at this capital, and instruction on the subject is for the most part anticipated by my No. 343, of August 18 instant, which communicated to you copy of the memorandum given to Count Arco-Valley, touching Chinese-American marriages. Nothing in the reported agreement between the Tsung-li Yamên and Mr. von Brandt conflicts in any way with the general propositions laid down in that memorandum. The rule accepted by the Government of China, that places a Chinese woman married to a German under the national jurisdiction of the husband, will probably assist in determining the status, in China, of the Chinese wife of an American citizen, assuming the marriage to be consensual and monogamous, and no special agreement on our part with China or modification of our statute to such end appears to be necessary at present.

I am, etc.,

T. F. BAYARD.

No. 234.

Mr. Denby to Mr. Bayard.

[Telegram.]

PEKING, *September* 5, 1888.

BAYARD,
Washington:

Believe treaty has been rejected. Have demanded from foreign office positive information some days since. No information has yet been received.

DENBY.

No. 235.

Mr. Denby to Mr. Bayard.

[Telegram.]

BAYARD, PEKING, *September* 6, 1888.
Secretary, Washington:

Treaty postponed for further deliberation.

DENBY.

No. 236.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 701.] LEGATION OF THE UNITED STATES,
Peking, September 17, 1888. (Received November 2.)

SIR: I have the honor to report that some days ago five ministers of the Yamên, to wit, Marquis Tsêng, San Yü-Wen, Hsü Yung-I, Liao Shou-Heng, and Hsi Chén sent cards asking for an interview to-day,

I, of course, assented. Four came to the legation at 3 o'clock and remained until after 5. They stated the object of their visit to be to learn whether I had any information as to the passage of a bill by Congress absolutely excluding all Chinese from the United States. They said that they had received a dispatch stating that Congress, being angry over the alleged rejection of the treaty, had resorted to this measure. I answered that I knew nothing about any bill having passed.

I said that China, and not the United States, had proposed the new treaty; that China had stated what should be the provisions thereof, and the views of China had been literally adopted by the framers of the treaty; that the conduct of China in refusing to ratify the treaty was unjust and indefensible.

They said that China had not refused to ratify the treaty. She was simply considering the question. I said she had allowed it to go out to the world that she had rejected the treaty. It was so reported in the London papers, the Chinese papers, and everywhere in Peking. In thus acting China was going back on its own express orders and directions. That there was no cause whatever to justify the change of front. That the sole object of the treaty of 1880 was to exclude Chinese laborers. That the treaty of 1888 changed the word "suspend" to the word "prohibit," and limited the effect of the treaty to twenty years. That this constituted the only difference between the treaties except so far as the latter favored China in other clauses. That China had known since 1880 that the influx of Chinese laborers would not be tolerated in the United States. That there was not the slightest use of endeavoring to cover up or disguise this plain question. That we were not acting like Australia and certain British provinces in America, levying a *per capita* tax on Chinese passengers in ships. But that we announced openly our policy to be that the immigration of Chinese laborers must stop, and departing laborers could not return except under the conditions stated in the new treaty.

I said that it was worthy of consideration whether the old treaty was not strong enough to support all necessary legislation, and, whether Congress had passed a new bill or not, it was probable that, if information reached that body that China had receded from her promises and pledges, the most stringent legislation would be enacted. I said the only thing to do was to immediately ratify the new treaty; that the new treaty was attacked at home as bitterly as in China; that a large part of the people in some States demanded absolute exclusion; that the Government had not favored that scheme; that it had in all things treated China fairly and honorably. I cited the passage of the opium bill and the payment of $453,400 in April, 1885, the payment of $147,748.74 in 1887, and the provision for the payment of $276,619.75 in the new treaty. I stated that, in spite of all these evidences of friendship, China now was, without any cause or reason whatever, declining to ratify its own work, and that delay in this matter was dangerous.

They protested that they had not rejected the treaty, but that they came to me for information on certain subjects.

They asked me if I would telegraph to inquire whether a bill had passed excluding all Chinese from entering the United States. I agreed to do that. They then asked me if I would telegraph to ask authority from you empowering me to consult with them as to new clauses. I said no, that this treaty had been made by the express orders of China, and did not contain a line except what she said she wanted, and if it were re-opened there would be great delays, and it

would be altogether improper for me to ask authority to amend or alter its provisions.

I finally asked them what changes they proposed to make in the treaty. They said they could not, on the moment, state them.

I said to them that if they would in twenty-four hours send me a statement of any additions or alterations that they proposed to make in the treaty, I would wire the substance thereof to you; but I stated that there was no conceivably proper change that occurred to me.

They said that the bill as passed by Congress might have excluded all Chinese laborers now in China who had certificates. I said the express object of the treaty was to exclude absent laborers from returning. That our policy was to do away with the disgraceful frauds which had made certificates merchandise in Hong-Kong, and had introduced into the United States hordes of men who had never been there before, and that in their communication to me of August 3, 1886, now before them, they had agreed that this might be done.

They said that a general bill of exclusion would prevent laborers who had $1,000 worth of property in the United States, or who had families, from returning thither. I said of course it would, but if they had promptly ratified the treaty Congress would not perhaps have passed a law to change its provisions. If now, by their delay, trouble came they must take the consequences. They said that Congress ought not to have passed a bill prohibiting immigration before the treaty was ratified. I said the only bill I had seen was printed in a newspaper, and provided that it should not take effect until after the ratification of the treaty. Legislation was necessary in advance of the ratification because it might be delayed until after the adjournment. Our interview lasted more than two hours. It was participated in to a considerable extent by the Marquis Tsêng.

During the interview the Marquis did not take a prominent part in the discussion. He, however, was frequently appealed to by me on account of his supposed acquaintance with western methods of legislation. He usually corroborated my statements.

I have, etc.,

CHARLES DENBY.

No. 237.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 703.] LEGATION OF THE UNITED STATES,
Peking, September 20, 1888. (Received November 2.)

SIR: Your telegram to the effect that the bill for the total exclusion of Chinese laborers from the United States had been passed by both houses of Congress and awaited the President's approval, and that in view of the excited state of public feeling on the Pacific coast in favor of the measure, and the critical situation thereby created, it became necessary to impress upon the Chinese Government the urgency of coming to a decision, in the interest of treaty relations and friendship, reached me at 5 p. m. the 19th instant.

In that sense I immediately sent to the Yamên the communication of which a copy is herewith inclosed.

This communication reached the foreign office about 6 o'clock p. m. the 19th. I knew that it would probably not be considered that evening, because the ministers had gone to their homes. I knew also that the question of ratification could not be finally acted on to-day, the 20th, because the Emperor would have to be consulted. His official audiences take place early in the morning, and he could not be consulted before the morning of the 21st. I did not, therefore, demand an instantaneous reply, but limited the time for an answer to forty-eight hours.

I could not telegraph to you yesterday because the gates of the Tartar city are closed at dark, and after that time there is no access to the telegraph office, which is situated in the Chinese city.

Early this morning I sent you a telegram reporting that your instructions had been communicated to the Yamên, and that an answer could not be obtained inside of forty-eight hours.

If my previous dispatches have reached you, you are in possession of all my acts and doings.

By my dispatch No. 701, of September 17, you will see that the Yamên, at their interview with me, agreed to send me, in twenty-four hours, suggestions as to alterations in or additions to the treaty. I did not telegraph an account of that interview to you, because I expected to receive these suggestions the 18th, and intended to embody all information in one telegram; but the Yamên has, up to this writing, sent me nothing.

We asked nothing of China except the exclusion of laborers. This has been the essence of the agreement of the two countries for eight years. The new treaty simply strengthens an assured right. China is the last country in the world to complain of exclusion. She excluded all the world from the earliest times. She excludes laborers to-day by forbidding foreigners to engage in manufacturing in her borders. She permits foreign access only to some twenty points on the sea-board and the great rivers. There are no American laborers in China. There are comparatively few merchants. The body of our people are missionaries, who are here for no purpose save to exercise philanthropy and to promote religion.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 703.]

Mr. Denby to the Foreign Office.

No. 14.] PEKING, *September* 19, 1888.

YOUR HIGHNESS AND YOUR EXCELLENCIES:

I am informed by telegram from the honorable Secretary of State that the bill providing for the total exclusion of all Chinese from the United States has passed both Houses of Congress and awaits the President's approval.

My reading of the telegram induces the belief that the approval or disapproval of the bill by the President of the United States depends on an immediate decision by the Government of China as to whether it will or not ratify the pending treaty.

The situation is critical; Congress is about to adjourn; immediate action must be taken.

In the interest of treaty relations and friendship between the two countries, and in view of the fact that the new treaty was suggested by your highness and your excellencies, I respectfully request that you will immediately ratify the treaty and give me immediate official notice thereof. If I do not receive from your highness and your excellencies within forty-eight hours an answer to this dispatch, it will be my duty to telegraph to my Government that the ratification has been refused.

I have, etc.,

CHARLES DENBY.

No. 238.

Mr. Denby to Mr. Bayard.

[Extract.]

No. 704.] LEGATION OF THE UNITED STATES,

Peking, September 21, 1888. (Received November 2.)

SIR: I have the honor to confirm my telegram of this day, which reads to the effect that the Chinese Government refuses to ratify the treaty unless discussion be allowed with a view to shortening the twenty years' limit, to permitting the return of laborers now abroad owning $1,000, and to providing for the return of laborers now absent who may own less.

I inclose herewith a translation of the communication of the Yamên to me.

It will be seen that the demands made involve the making of a new treaty.

The first demand looks to the shortening of the period of limitation. I have no comment to make on this clause except that it trifles with our just rights.

They demand, secondly, that laborers who have returned to China previous to the enforcement of the treaty, and who would have been qualified to secure a certificate of return under Article II, shall be allowed to present a petition to the Chinese consul, embodying the circumstances, and that a certificate be granted them to return to the United States. Had the treaty been ratified, and such a suggestion been made as to the provisions of the laws which are intended to provide for its execution, this demand would have been worthy of fair consideration. But, in my opinion, no authority to issue certificates should, in any event, be given to a Chinese consul.

The third demand is, in its terms, indefinite. It proposes the discussion of the question how the cases of Chinese laborers who are now abroad, and who own less than $1,000, shall be dealt with. If this clause looks to a return of this class it is inadmissible. It is settled by the treaty that such persons can not return. Under Article II, the right to return is expressly limited to a 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."

To make any provision whatever for the return of Chinese laborers who do not fill these requirements, is simply to annul Article II altogether.

In view of the fact that I have no authority to discuss with the Yamên any alterations in the treaty, I have sent to them the reply of which a copy is inclosed.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 704.]

The Foreign Office to Mr. Denby.

No. 10.] PEKING, *September* 20, 1888.

YOUR EXCELLENCY: Since the interview we had with your excellency a few days ago, we have during the interval considered the points in the new treaty that are still necessary to be clearly discussed. They are arranged under three headings and we

were preparing a memorandum of them when we received your excellency's dispatch of the 19th instant, the contents of which we have duly perused.

It appears that on account of your Government having heard reports published in the newspapers that China would not assent to the ratification of the new treaty, both Houses of Congress have therefore passed an act.

On the Yamên hearing of this report we were at first rather inclined to disbelieve it, hence we (some of the ministers) proceeded to your excellency's legation to make inquiry. Your excellency was also certain that there was no such thing; but on perusal of your excellency's communication we then knew that the reports were well founded.

We certainly had no idea or expected such a thing.

With regard to this matter, it concerns the establishment of a treaty between the two countries, and we can not but be extra careful and circumspect. It is right, therefore, to await until after your excellency has taken up the three points submitted by the Yamên and carefully and clearly considered them and sent us a communication in reply, then we can present the new treaty in a memorial to the throne, asking for ratification thereof.

If this matter can be expeditiously considered and decided upon the Yamên will also be very much pleased. But we are of the opinion (that if) the Government of the United States has hitherto entertained thorough friendly relations towards China (the President) will surely not assent to the one-sided action of Congress in the passage of the new act, pressing China and giving her very little time, thus making it difficult for the Yamên to deal in the matter satisfactorily.

[Inclosure 2 in No. 704.]

MEMORANDUM SUBMITTED BY THE TSUNG-LI YAMÊN IN REGARD TO THE NEW EXCLUSION TREATY.

(1) In this treaty, although the purposes and intent of the contracting parties are in general identical, still the people outside are very much displeased with it. If the period of limitation can be discussed with a view to reducing it, this will have the effect of tranquillizing their feelings a little, and it will make matters much more convenient.

At the expiration of the changed period of limitation, if the two countries do not consider it necessary to make any alteration, then another period of limitation can be extended.

(2) In the second article of this treaty (after it takes effect) the provisions governing the return of Chinese laborers to China and their going to the United States are, on the whole or generally speaking, satisfactory; but in regard to Chinese laborers who have returned to China previous to the enforcement of this treaty, if they have property in the United States they should be allowed to present a petition to the Chinese consul embodying the circumstances, and a certificate be issued granting them also in like manner the right to return to the United States, thus manifesting a sense of justice.

(3) Chinese laborers who have returned to China, and who have property in the United States not amounting to $1,000 in value. It is right that the question as to how such cases should be dealt with should also be discussed.

[Inclosure 3 in No. 704.]

Mr. Denby to the Foreign Office.

No. 15.] PEKING, *September* 21, 1888.

YOUR HIGHNESS AND YOUR EXCELLENCIES:

I have received, to my very great regret, the communication of your highness and your excellencies on the subject of the ratification of the new treaty between the Imperial Government of China and the United States.

Your action amounts simply to a rejection of the treaty.

Any change made in it now would involve the necessity of another ratification by the Senate of the United States.

I have no authority to make a new treaty nor to discuss with your highness and your excellencies the propriety of making any changes in the treaty which is before you for ratification.

I have forwarded your communication to my Government and will await its orders.

I have, etc.,

CHARLES DENBY.

No. 239.

Mr. Rives to Mr. Denby.

No. 357.] DEPARTMENT OF STATE,
Washington, October 10, 1888.

SIR: I transmit herewith for your information copies of the recently approved Chinese exclusion act and of the President's message upon the subject; also of Senate Ex. Doc. O, Fiftieth Congress,* first session, parts 1 and 2, and Senate Ex. Doc. No. 272, Fiftieth Congress, first session.

I am, etc.,

G. L. RIVES,
Acting Secretary.

[Inclosure 1 in No. 357.]

[PUBLIC—No. 305.]

AN ACT a supplement to an act entitled "An act to execute certain treaty stipulations relating to Chinese," approved the sixth day of May eighteen hundred and eighty-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, it shall be unlawful for any chinese laborer who shall at any time heretofore have been, or who may now or hereafter be, a resident within the United States, and who shall have departed, or shall depart, therefrom, and shall not have returned before the passage of this act, to return to, or remain in, the United States.

SEC. 2. That no certificates of identity provided for in the fourth and fifth sections of the act to which this is a supplement shall hereafter be issued; and every certificate heretofore issued in pursuance thereof, is hereby declared void and of no effect, and the chinese laborer claiming admission by virtue thereof shall not be permitted to enter the United States.

SEC. 3. That all the duties prescribed, liabilities penalties and forfeitures imposed, and the powers conferred by the second, tenth, eleventh, and twelfth, sections of the act to which this is a supplement are hereby extended and made applicable to the provisions of this act.

SEC. 4. That all such part or parts of the act to which this is a supplement as are inconsistent herewith are hereby repealed.

Approved, October 1, 1888.

[Inclosure 2 in No. 357.—Senate Ex. Doc. No. 273, Fiftieth Congress, First session.]

Message from the President of the United States, relative to the act to execute certain treaty stipulations with China.

TO THE CONGRESS:

I have this day approved the House bill number eleven thousand three hundred and thirty-six, supplementary to an act entitled "An act to execute certain treaty stipulations relating to Chinese," approved the sixth day of May, eighteen hundred and eighty-two.

It seems to me that some suggestions and recommendations may properly accompany my approval of this bill.

Its object is to more effectually accomplish by legislation the exclusion from this country of the Chinese laborers.

The experiment of blending the social habits and mutual race idiosyncrasies of the Chinese laboring classes with those of the great body of the people of the United States has been proved by the experience of twenty years, and ever since the Burlingame treaty of 1868, to be in every sense unwise, impolitic, and injurious to both

* For Senate Ex. Doc. O, Fiftieth Congress (convention for restricting Chinese immigration), see Document No. 260, post, page 396 (Mr. Bayard to Mr. Chang Yen Hoon, May 8, 1888).

nations. With the lapse of time the necessity for its abandonment has grown in force, until those having in charge the government of the respective countries have resolved to modify and sufficiently abrogate all those features of prior conventional arrangements which permitted the coming of Chinese laborers to the United States.

In modification of the prior conventions the treaty of November 17, 1880, was concluded, whereby, in the first article thereof, it was agreed that the United States should at will regulate, limit, or suspend the coming of Chinese laborers to the United States, but not absolutely prohibit it; and under this article an act of Congress, approved on May 6, 1882 (see vol. 22, p. 58, Stats. at Large), and amended July 5, 1884 (vol. 23, p. 115, Stats. at Large), suspended for ten years the coming of Chinese laborers to the United States, and regulated the going and coming of such Chinese laborers as were at that time in the United States.

It was, however, soon made evident that the mercenary greed of the parties who were trading in the labor of this class of the Chinese population was proving too strong for the just execution of the law, and that the virtual defeat of the object and intent of both law and treaty was being fraudulently accomplished by false pretense and perjury, contrary to the expressed will of both Governments.

To such an extent has the successful violation of the Treaty and the laws enacted for its execution progressed, that the courts in the Pacific States have been for some time past overwhelmed by the examination of cases of Chinese laborers who are charged with having entered our ports under fraudulent certificates of return or seek to establish by perjury the claim of prior residence.

Such demonstration of the inoperative and inefficient condition of the treaty and law has produced deep-seated and increasing discontent among the people of the United States, and especially with those resident on the Pacific coast. This has induced me to omit no effort to find an effectual remedy for the evils complained of, and to answer the earnest popular demand for the absolute exclusion of Chinese laborers having objects and purposes unlike our own, and wholly disconnected with American citizenship.

Aided by the presence of this country of able and intelligent diplomatic and consular officers of the Chinese Government, and the representations made from time to time by our minister in China under the instructions of the Department of State, the actual condition of public sentiment and the status of affairs in the United States has been fully made known to the Government of China.

The necessity for remedy has been fully appreciated by that Government, and in August, 1886, our minister at Peking received from the Chinese foreign office a communication announcing that China, of her own accord, proposed to establish a system of strict and absolute prohibition of her laborers, under heavy penalties, from coming to the United States, and likewise to prohibit the return to the United States of any Chinese laborer who had at any time gone back to China "in order" (in the words of the communication) "that the Chinese laborers may gradually be reduced in number and causes of danger averted and lives preserved."

This view of the Chinese Government, so completely in harmony with that of the United States, was by my direction speedily formulated in a treaty draft between the two nations, embodying the propositions so presented by the Chinese foreign office.

The deliberations, frequent oral discussions, and correspondence on the general questions that ensued have been fully communicated by me to the Senate at the present session, and, as contained in Senate Executive Document O, parts 1 and 2, and in Senate Executive Document No. 272, may be properly referred to as containing a complete history of the transaction.

It is thus easy to learn how the joint desires and unequivocal mutual understanding of the two Governments were brought into articulated form in the treaty, which, after a mutual exhibition of plenary powers from the respective Governments, was signed and concluded by the plenipotentiaries of the United States and China at this capital on March 12 last.

Being submitted for the advice and consent of the Senate its confirmation, on the 7th day of May last, was accompanied by two amendments, which that body engrafted upon it.

On the 12th day of the same month the Chinese minister, who was the plenipotentiary of his Government in the negotiation and the conclusion of the treaty, in a note to the Secretary of State gave his approval to these amendments, "as they did not alter the terms of the treaty," and the amendments were at once telegraphed to China, whither the original treaty had previously been sent immediately after its signature on March 12.

On the 13th day of last month I approved Senate bill number thirty-three hundred and four, "to prohibit the coming of Chinese laborers to the United States." This bill was intended to supplement the treaty, and was approved in the confident anticipation of an early exchange of ratifications of the treaty and its amendments and the proclamation of the same, upon which event the legislation so approved was by its terms to take effect.

No information of any definite action upon the treaty by the Chinese Government was received until the 21st ultimo—the day the bill which I have just approved was presented to me—when a telegram from our minister at Pekin to the Secretary of State announced the refusal of the Chinese Government to exchange ratifications of the treaty, unless further discussion should be had with a view to shorten the period stipulated in the treaty for the exclusion of Chinese laborers, and to change the conditions agreed on, which should entitle any Chinese laborer who might go back to China to return again to the United States.

By a note from the chargé d'affaires *ad interim* of China to the Secretary of State, received on the evening of the 25th ultimo (a copy of which is herewith transmitted, together with the reply thereto), a third amendment is proposed, whereby the certificate under which any departing Chinese laborer alleging the possession of property in the United States would be enabled to return to this country, should be granted by the Chinese consul instead of the United States collector, as had been provided in the treaty.

The obvious and necessary effect of this last proposition would be practically to place the execution of the treaty beyond the control of the United States.

Article I of the treaty proposed to be so materially altered had, in the course of the negotiations, been settled in acquiescence with the request of the Chinese plenipotentiary, and to his expressed satisfaction.

In 1886, as appears in the documents heretofore referred to, the Chinese foreign office had formally proposed to our minister strict exclusion of Chinese laborers from the United States without limitation; and had otherwise and more definitely stated that no term whatever for exclusion was necessary, for the reason that China would of itself take steps to prevent its laborers from coming to the United States.

In the course of the negotiations that followed suggestions from the same quarter led to the insertion in behalf of the United States of a term of "thirty years," and this term, upon the representations of the Chinese plenipotentiary, was reduced to "twenty years," and finally so agreed upon.

Article II was wholly of Chinese origination, and to that alone owes it presence in the treaty.

And it is here pertinent to remark that everywhere in the United States laws for the collection of debts are equally available to all creditors without respect to race, sex, nationality, or place of residence, and equally with the citizens or subjects of the most favored nations and with the citizens of the United States recovery can be had in any court of justice in the United States by a subject of China, whether of the laboring or any other class.

No disability accrues from non-residence of a plaintiff whose claim can be enforced in the usual way by him or his assignee or attorney in our courts of justice.

In this respect it can not be alleged that there exists the slightest discrimination against Chinese subjects, and it is a notable fact that large trading firms and companies and individual merchants and traders of that nation are profitably established at numerous points throughout the Union, in whose hands every claim transmitted by an absent Chinaman of a just and lawful nature could be completely enforced.

The admitted and paramount right and duty of every Government to exclude from its borders all elements of foreign population which for any reason retard its prosperity or are detrimental to the moral and physical health of its people, must be regarded as a recognized canon of international law and intercourse. China herself has not dissented from this doctrine but has, by the expressions to which I have referred, led us confidently to rely upon such action on her part in co-operation with us as would enforce the exclusion of Chinese laborers from our country.

This co-operation has not, however, been accorded us. Thus from the unexpected and disappointing refusal of the Chinese Government to confirm the acts of its authorized agent and to carry into effect an international agreement, the main feature of which was voluntarily presented by that Government for our acceptance, and which had been the subject of long and careful deliberation, an emergency has arisen in which the Government of the United States is called upon to act in self-defense by the exercise of its legislative power. I can not but regard the expressed demand on the part of China for a re-examination and renewed discussion of the topics so completely covered by mutual treaty stipulations as an indefinite postponement and practical abandonment of the objects we have in view, to which the Government of China may justly be considered as pledged.

The facts and circumstances which I have narrated lead me, in the performance of what seems to me to be my official duty, to join the Congress in dealing legislatively with the question of the exclusion of Chinese laborers, in lieu of further attempts to adjust it by international agreement.

But while thus exercising our undoubted right in the interests of our people and for the general welfare of our country, justice and fairness seem to require that some provision should be made, by act or joint resolution, under which such Chinese laborers as shall actually have embarked on their return to the United States before the

passage of the law this day approved, and are now on their way, may be permitted to land provided they have duly and lawfully obtained and shall present certificates heretofore issued permitting them to return in accordance with the provisions of the existing law.

Nor should our recourse to legislative measures of exclusion cause us to retire from the offer we have made to indemnify such Chinese subjects as have suffered damage through violence in the remote and comparatively unsettled portions of our country at the hands of lawless men. Therefore I recommend that, without acknowledging legal liability therefor, but because it was stipulated in the treaty which has failed to take effect, and in a spirit of humanity befitting our nation, there be appropriated the sum of two hundred and seventy-six thousand six hundred and nineteen dollars and seventy-five cents, payable to the Chinese minister at this capital on behalf of his Government as full indemnity for all losses and injuries sustained by Chinese subjects in the manner and under the circumstances mentioned.

GROVER CLEVELAND.

EXECUTIVE MANSION, *October* 1, 1888.

[Inclosure 3 in No. 357.—Senate Ex. Doc. No. 272, fiftieth Congress, first session.]

Message from the President of the United States, transmitting, in response to Senate resolution of September 11, 1888, *report and documents relative to the pending treaty with China.*

TO THE SENATE:

I herewith transmit, in reply to the resolution of the Senate of the 11th instant, a copy of a report from the Secretary of State, with accompanying documents, relative to the pending treaty with China.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, September 18, 1888.

TO THE PRESIDENT:

In transmitting copies of the correspondence of this Department in relation to the pending treaty with China, called for by the resolution of the Senate of the 11th instant, it is proper, in elucidation thereof, to inform you that the subjects embraced in the treaty were also elaborately discussed in the personal interviews held by me with Mr. Chang Yen Hoon, the Chinese minister, from time to time since his arrival here in 1886. By reference to my private memoranda of these interviews, I find they took place at this Department on January 7, January 28, March 11, March 18, and April 13, 1887—on the 23d of which last-mentioned month the minister sailed for Spain, to which country he was also accredited as minister, whence he returned to the United States in the month of August following, but did not renew his residence at this capital for some months thereafter.

The subject of the treaty was without delay renewed by me, and, in addition to the correspondence herewith transmitted, I held personal interviews with the minister at this Department on February 29, March 2, May 4, May 9, May 11, 1888.

On May 21 last the minister sailed from New York for Peru, to which country he was also accredited as minister, and my latest information is to the effect that he is now on his way from Lima to the United States.

On July 16 last I was called upon by the Chinese chargé d'affaires *ad interim*, who informed me that on the Friday previous (July 13) a cablegram from the Chinese foreign office had been received by him, in which the inquiry was made "whether any further amendments could be added by the Senate to the pending treaty."

In reply, he was informed by me that the treaty as now amended by the Senate was concluded, and only awaited an exchange of ratifications to become binding upon both parties by proclamation to that effect.

The personal interviews above referred to, together with the copies in writing herewith transmitted, and the two telegrams from our minister in China already communicated by you to the Senate in response to a resolution of inquiry of the 5th instant (and published in the Congressional Record, page 9211), comprise in full the information requested by the resolution of the Senate of the 11th, which I herewith return to you.

In view of the phraseology of the closing line of the resolution referring to any other representative or agent of the United States in China or elsewhere, with reference to the said treaty, I have the honor to state that no correspondence whatever with any one other than that which is now transmitted has been had by this Department in reference to the said treaty.

When the treaty now pending was submitted by you in March last to the Senate for confirmation, it was accompanied by copies of certain correspondence between this Department and the Chinese minister, in relation to the negotiations, and this was printed by order of the Senate, being Executive Document O, of the present session.

This publication included sundry of the letters now again transmitted, as will appear by reference to the Senate executive document referred to.

Respectfully submitted.

T. F. BAYARD.

DEPARTMENT OF STATE,
Washington, September 18, 1888.

IN THE SENATE OF THE UNITED STATES,
September 11, 1888.

Resolved, That the President be requested, if not incompatible with the public interest, to transmit to the Senate as early as convenient all correspondence or communications by and with the Government of the United States concerning the treaty with China recently ratified by the Senate, including all communications which have passed between the State Department and our minister to China or any other representative or agent of the United States in China or elsewhere with reference to said treaty.

Attest:

ANSON G. McCOOK,
Secretary.

List of inclosures.

1. Mr. Bayard to Mr. Chang Yen Hoon. Jan. 12, 1887. (Doc. No. 240, *post* p. 360.)
2. Communication from Tsung-li Yamên to United States minister, received from Chinese interpreter, Mr. Liang. Jan. 12, 1887. (Doc. No. 241, *post* p. 362.)
3. Mr. Chang Yen Hoon to Mr. Bayard. Jan. 15, 1887. (Doc. No. 242, *post* p. 363.)
4. Mr. Chang Yen Hoon to Mr. Bayard. Feb. 25, 1887. (Doc. No. 243, *post* p. 363.)
5. Memorandum left at Department by Chinese minister. Mar. 18, 1887. (Doc. No. 244, *post* p. 366.)
6. Mr. Bayard to Mr. Chang Yen Hoon. Apr. 11, 1887. (Doc. No. 245, *post* p. 371.)
7. Mr. Chang Yen Hoon to Mr. Bayard. Aug. 16, 1887. (Doc. No. 246, *post* p. 375.)
8. Mr. Bayard to Mr. Chang Yen Hoon. Dec. 28, 1887. (Doc. No. 247, *post* p. 379.)
9. Mr. Chang Yen Hoon to Mr. Bayard. Jan. 30, 1888. (Doc. No. 250, *post* p. 381.)
10. Mr. Chang Yen Hoon to Mr. Bayard. Feb. 16, 1888. (Doc. No. 251, *post* p. 383.)
11. Mr. Bayard to Mr. Chang Yen Hoon. Feb. 23, 1888. (Doc. No. 252, *post* p. 387.)
12. Mr. Bayard to Mr. Chang Yen Hoon. Feb. 29, 1888. (Doc. No. 253, *post* p. 388.)
13. Mr. Chang Yen Hoon to Mr. Bayard. Mar. 3, 1888. (Doc. No. 255, *post* p. 390.)
14. Mr. Bayard to Mr. Chang Yen Hoon. Mar. 7, 1888. (Doc. No. 256, *post* p. 392.)
15. Mr. Bayard to Mr. Chang Yen Hoon. Mar. 9, 1888. (Doc. No. 257, *post* p. 393.)
16. Mr. Bayard to Mr. Chang Yen Hoon. May 8, 1888. (Doc. No. 260, *post* p. 396.)
17. Mr. Bayard to Mr. Chang Yen Hoon. May 11, 1888. (Doc. No. 261, *post* p. 400.)
18. Mr. Chang Yen Hoon to Mr. Bayard. May 12, 1888. (Doc. No. 262, *post* p. 400.)
19. Mr. Chang Yen Hoon to Mr. Bayard. May 14, 1888. (Doc. No. 263, *post* p. 401.)

CORRESPONDENCE WITH THE LEGATION OF CHINA AT WASHINGTON.

No. 240.

Mr. Bayard to Mr. Chang Yen Hoon.

[Confidential.]

DEPARTMENT OF STATE,
Washington, January 12, 1887.

SIR: I have had the honor informally to discuss with you, in recent personal interviews in connection with questions growing out of mob violence upon Chinese in certain of the Northwestern Territories of

this country, the expediency of concluding a treaty between our respective Governments for the purpose of inhibiting for a term of years the immigration of Chinese laborers to the United States, where their distinctive presence in newly-settled regions has excited race prejudice and given rise to the serious disorders, which are so much to be deplored.

I have been led to believe, by advices received at this Department from the minister of the United States in China, that such an arrangement would meet the ready approval of your Government, which has already put forth efforts to prevent further emigration of its subjects of the class indicated.

The prohibition which I now have the honor to propose applies to laborers only. Teachers, students, merchants, and travelers for curiosity or pleasure would continue fully to retain all the rights of entrance and sojourn in the United States which they at present enjoy.

It is worthy of remark that under this proposal the exempted classes of Chinese really include by designation all, or nearly all, the classes of American citizens who resort to China under the present treaties; and unrestricted territorial range within the United States will be continued to Chinese as fully as it is enjoyed by our own citizens; a liberty which is denied to Americans in China.

In pursuance of the object above indicated I have the honor to submit herewith a *projet* of a convention, which, if satisfactory and within the scope of your delegated powers, may at once be signed and submitted to the Senate for its approval.

Accept, sir, etc.,

T. F. BAYARD.

[Inclosure.]

DRAUGHT OF CONVENTION RELATING TO EMIGRATION TRANSMITTED WITH NOTE TO CHINESE MINISTER, OF JANUARY 12, 1887.

[Confidential.]

JANUARY 12, 1887.

Whereas, on the 17th day of November, A. D. 1880, a treaty was concluded between the United States and China for the purpose of regulating, limiting, or suspending the coming of Chinese laborers to the United States, as well as their residence therein; and whereas it is thought desirable by both Governments, in order to strengthen the bonds of friendship between them, that a further and express restriction should be placed upon the coming of Chinese laborers to the United States, where their presence in newly-settled regions has excited antagonisms and given rise to much deprecated and serious disorders:

Now, therefore, the President of the United States has appointed ——— ——— as his plenipotentiary, and His Imperial Majesty the Emperor of China has appointed ——— ——— as his plenipotentiary; and the said plenipotentiaries, having exhibited their respective full powers, found to be good and in due form, have agreed that for a period of thirty years, beginning with the date of the exchange of ratification of this convention, the coming of or return to the United States of Chinese laborers shall be absolutely prohibited; and if, six months before the expiration of the said period of thirty years, neither Government should formally have given notice to the other of an intention to treat such prohibition as at an end, it shall remain in full force for another period of thirty years. But it is expressly understood that the provisions of this convention shall not affect the right at present enjoyed of Chinese subjects, being teachers, students, merchants, or travelers for curiosity or pleasure, but not laborers, to come to the United States and reside therein.

No. 241.

[Translation received from the Chinese interpreter, Liang, January 12, 1887.]

A communication from Tsung-li-Yamên (the foreign office) to the United States minister, Mr. Charles Denby.

SIR: We had the honor of addressing your excellency a note in the first month this year regarding the outrages committed upon the Chinese laborers in the United States, which we requested you to communicate to the Secretary of State, to the end that protection might be extended to them according to their rights as guarantied by the treaty stipulations. We received a reply from you, stating that you had communicated with the Secretary of State on the subject, and that you had heard of the strenuous efforts of your Government in protecting them.

Chinese laborers hitherto and now residing in the United States are entitled by treaty to go and come of their own free will and accord, and to protection, rights, privileges, immunities, and exemptions which are accorded to citizens or subjects of the most favored nation. That your Government issues certificates to those Chinese laborers who may leave the United States for their homes or other country, thereby enabling them to return to the United States, is an act in conformity with the treaty stipulations.

Recently outrages of a serious nature—such as driving the Chinese from their fields of labor and places of abode or trade, burning and murdering them—have been repeatedly committed. The local authorities had not extended to them timely protection, nor have they exerted themselves with zeal in bringing the perpetrators of the crimes to justice after their commission; consequently, though after such a long delay, no justice has as yet been obtained in any of the cases, for which the sufferers feel bitterly grieved even in their very bones, and those who hear of it feel pained to their hearts.

While your Government in vain professes to guaranty protection to the Chinese laborers, they in reality do not derive any substantial protection as demanded by their rights. China treats the Americans strictly in conformity with the treaty stipulations, but the United States treat the Chinese in such a manner as if the treaties were made for no purpose.

Now China, of her own accord, proposes to establish a system of prohibition, that those laborers who have not been to the United States will be strictly prohibited from going thither, nor any Chinese laborer who has returned to China from the United States, where he has no property or family, will be allowed to go back thither to run the risk of treading on the ground of danger. With regard to the Chinese laborers now remaining in the United States and that class of Chinese entitled by treaty to come and go of their own free will and accord, it is hoped that they will forever be treated according to treaty stipulations. These are the outlines of the plan proposed for the prohibition of the Chinese laborers, but the detailed and minute provisions of the regulations relating to the same will be communicated to you for your information after they have been discussed and decided upon by the Chinese minister at present accredited to your Government.

It is necessary that the Chinese merchants going to the United States should bear a certificate by which to discriminate them from the laborers. Either the certificate should be issued and forwarded by the Chinese consul-general at San Francisco to the Chinese merchant, who shall get it visaed by both the Chinese and American consuls in Hong-

Kong, or it should be issued by the Chinese consul in Hong-Kong to the Chinese merchant. We hereby request that you will call the attention of your Government to the subject, in order that a certain course be immediately adopted for the guidance of the Chinese merchants who apply for the certificate above mentioned.

With regard to the Chinese who, while going from China to another foreign country or returning from the latter to China or from one foreign country to another, may require to pass through the United States *in transitu*, it is to be hoped that the United States will, as hitherto, permit their free transit without let or hindrance.

With a view of a strict enforcement of the prohibition of the Chinese laborers from going to the United States, we propose to write to His Excellency Walsham, the British minister at Peking, requesting him to communicate with his government on the subject, to the end that instructions may be given to the governor of Hong-Kong to assist in the said prohibition. And we therefore beg that your excellency will communicate the above to the consideration of the Secretary of State.

No. 242.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, D. C., January 15, 1887. (Received January 17.)

SIR: I have the honor to acknowledge the receipt of your note dated the 12th instant, the contents of which I have carefully noted.

I have also several things which I intend to propose to your excellency's consideration, but, under instructions from the foreign office, I can not do so until all the pending cases are settled.

Referring to the cases of outrages committed upon the Chinese in the United States in the past years, you kindly gave me repeated assurances, in person, that indemnities would be awarded and the cases settled within a certain time, which I, in my dispatches, more than once communicated to the foreign office; but, nevertheless, they still remain unsettled; consequently I find myself placed in a rather delicate position, which it seems hard for me to extricate myself from.

It seems premature for us to enter into negotiations for concluding a treaty, as suggested by you, at the present moment.

I have a strong desire to maintain the friendly and cordial relations of the two Governments, but as it would lack the spirit of harmony necessary for carrying on negotiations if arguments should only be set forth in correspondence, I shall hope to do myself the honor of having an interview with your excellency at my earliest convenience.

Accept, sir, etc.,

CHANG YEN HOON.

No. 243.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, D. C., February 25, 1887. (Received February 25.)

SIR: It becomes my unpleasant duty to bring to your attention further acts of violence against Chinese subjects and injury to their prop-

erty in violation of treaty rights, additional to the lawless acts which have been the subject of my previous notes.

It appears from the reports received at this legation and corroborated by the statements of the officers of the United States and of the public press, that a considerable body of peaceable and law-abiding Chinese laborers at the mines on Douglass Island and in the vicinity of Juneau, Alaska Territory, near one hundred in number, were assaulted in the month of August last by a band of wicked and lawless men, with arms and violence, and ordered to cease work and abandon the Territory; that when the Chinese declined to go voluntarily, the mob of armed men took them by force, drove them to the sea-shore, put them on miserable, small schooners, and sent them adrift on the ocean; that they were, after enduring great hardships, landed on a distant and barren land; that being kindly taken on board by a passing steamer, they were carried back to the place where they had been working; that they desired to return to their employment, but the wicked men who had first driven them away threatened their lives if they remained, and neither their employers nor the United States authorities could afford them any protection; that to save their lives, and with great pecuniary loss and damage, they were compelled to flee to San Francisco and elsewhere outside of the Territory of Alaska, having endured further hardship and suffering on their journey; and that, owing to the reign of terror created by these wicked men, they have not been able to return to Alaska.

Official information of this outrage has doubtless reached your Government, as the noble and honored President in his last annual message to Congress has alluded to it; and General Gibbon, the military commander in Washington Territory, in his annual report of September 8, 1886, states that "a report has recently reached me from authentic sources that in the month of August a number of Chinese laborers were expelled from Douglass Island, in the Territory of Alaska, by an organized party of white men, who acted with great brutality towards their helpless victims." The newspaper account which I inclose herewith will furnish you with some of the many details published by the press at the time.

It has not been possible for me, owing to the distant locality of these occurrences, to obtain speedily an accurate estimate of the losses which have been sustained by the Chinese through these lawless acts; but I take the liberty to transmit to you a copy of the petition of some of the sufferers, and as soon as I can obtain further information I will again communicate with you on the subject. But I have felt it my duty not to delay longer to address you and to ask urgently that rigorous and effective measures will be adopted, if not already taken, to bring to merited punishment the wicked men who have so defiantly violated the laws and the treaties and have so inhumanly outraged the rights of my countrymen to their great bodily suffering and pecuniary loss.

Accept, sir, etc.,

CHANG YEN HOON.

[Inclosure 1.—From the Chicago Tribune, August 15, 1886.]

NEWSPAPER ACCOUNT OF THE EXPULSION.

Inhumanity to Chinamen—The brutal treatment accorded the Celestial miners who were expelled from Douglass Island and Juneau City, Alaska.

Mr. J. B. Hammond, an engineer and contractor of this city, has just returned home and gives a doleful account of the recent expulsion of Chinese miners from

Douglass Island and Juneau City, Alaska. He also recites the words of ex-Governor Hoadley, of Ohio; Bishop Warren, of Colorado; Dr. Haven, of Chicago; Chief-Justice Waite, and others, who were in Alaska about the time, and all of whom denounced in the most bitter terms the inhumanity and barbarity that, by intimidation and force, compelled the defenseless heathen to quit their labors and risk their lives in small and unseaworthy boats for the long voyage down the coast to Fort Wrangel.

The facts are stated to be that one hundred armed men visited the Treadwell mine on Douglass Island and ordered the Chinese to leave, threatening them in unmistakable language with death if they remained. Somewhat to the astonishment of their employers the Chinamen expressed a readiness to stay and fight, but, being unarmed and a ageneral massacre being almost certain to follow any resistance on their part, it was reluctantly admitted that the only thing for them to do was to leave. Some efforts were made through the United States marshal to secure protection for them, but too late. The Chinese were marched in a body from the mines, taken in skiffs to Juneau, and then packed on board two small schooners. There were eighty-seven of them in all, and they so crowded the boats that there was not even room for them to lie down. To add to the brutality of the expulsion, they were given nothing to shelter them from the inclement weather and barely rice enough to keep them from starving on their four weeks' trip along the coast. Mr. Hammond was an eye-witness to the expulsion, and denounces it as a most cowardly and inhuman proceeding. The Chinamen, he says, were not to blame for being there, having gone to work under a contract made in San Francisco at a time when it was impossible to get white labor to go to Alaska. As it is now, he says, the mine-owners will have to indemnify the Chinese, and the owners will, in turn, demand indemnity from the Government.

[Inclosure 2.]

PETITION OF CHINESE SUBJECTS.

SAN FRANCISCO, *February* 7, 1887.

To His Excellency the CHINESE MINISTER:

The petition of Fung Ah Soey, native of the district of Sunning, and others, all subjects of China, lately working in the mines on Douglass Island, Alaska Territory, respectfully sets forth:

That your petitioners were laborers lately employed in the mines on Douglass Island, Alaska Territory. That on the 8th day of the 7th month in the last year (August 6, 1886), a party of wicked men, over one hundred in number, drove your petitioners to the sea-shore, took them across in small boats to Juneau, and subsequently placed them on board small schooners, which conveyed them to Fort Wrangel, where they were landed on a barren land and left, suffering from both hunger and cold.

That fortunately a passenger vessel called the *Ancon* passed by, her master took your petitioners on board, and carried them back to the place where they had been working. That the wicked parties, armed with guns, threatened to kill your petitioners. Your petitioners were greatly alarmed, and for the protection of their lives fled to the port of San Francisco in a vessel. They had to borrow money of their employers to pay for their passage.

That your petitioners, in consequence of their expulsion from the island, lost all their money and property, amounting in all to $13,762.65.

That the four leaders of the wicked party are named, respectively, Jack Timmers, Patrick McGliney, Frank Berry, and George Wheelock.

That a delay has been occasioned in making this report owing to some time having been taken to ascertain the names above mentioned. That a statement of the losses sustained by your petitioners has been lodged with the consul-general at San Francisco. Your petitioners therefore humbly pray that your excellency will kindly take this matter into your consideration and communicate the same to the Government of the United States, to the end that proper punishment may be inflicted on the evil-doers and indemnification be awarded to your petitioners. And your petitioners shall, as in duty bound, ever pray.

[Signed by various Chinese subjects.]

No. 244.

NEGOTIATIONS FOR THE PROTECTION OF THE CHINESE IN THE UNITED STATES.

[Left at the Department by the Chinese minister March 18, 1887.]

By article 3 of the treaty of 1880, which reads as follows: "If Chinese laborers, or Chinese of any other class, now either permanently or temporarily residing in the territory of the United States, meet with ill treatment at the hands of any other persons, the Government of the United States will exert all its powers to devise measures for their protection, and to secure to them the same rights, privileges, immunities, and exceptions as may be enjoyed by the citizens or subjects of the most favored nations, and to which they are entitled by treaty," the Chinese in the United States are entitled to enjoy completely the rights and privileges of protection; but in September of the year 1885 there occurred a case in Rock Springs, Wyoming Territory, where the Chinese were murdered and burned to death by a mob of laborers, and immediately after the wicked class of people in the Western Territories in various ways followed this bad example; consequently, there have been numberless cases in which the Chinese were outrageously treated. Thanks to the United States Government for having sent its troops for the suppression of the riots, by which kind act not a few lives of the Chinese were preserved. The President of the United States having been fully informed of the sad sufferings of the innocent Chinese in the Rock Springs case, and being prompted by a sense of justice, recommended to Congress the necessity of awarding indemnification for the losses and damages sustained by the suffering Chinese. An indemnity bill has been passed accordingly, granting the full amounts claimed. Nevertheless no justice or redress has as yet been done or given on account of the Chinese who were murdered. The acts of expulsion of the Chinese did not die away even until last fall.

The treaty stipulations require that the United States Government shall exert all its power to devise measures for the protection of the Chinese in the United States in case they should meet with ill treatment at the hands of any other persons, but the population in the Western Territories have made the ill treatment of the Chinese a constant practice, and have looked upon the acts of expelling and burning out the Chinese as sources of pleasure. Consequently, no sooner had the perpetrators in the cases of outrage in Rock Springs and Seattle been arrested than they were released, which could by no means strike terror to the hearts of the evil-doers. The Chinese Government, having the interests of its subjects at heart, being unable to bear any longer with the ill manners with which they are treated in the foreign country, and with a view of averting any possible cause of disturbance and ill feelings between the people of the United States and China which might jeopardize the friendly relations of the two Governments, did, on the 4th day of the seventh month last year (3d August, 1886), write to Mr. Denby, the United States minister at Peking, through the foreign office (Tsung-li Yamên), on the subject of China's purpose of her own accord to prohibit its subjects of the laboring class from emigrating to the United States. There are three important things which China proposes to do in this respect: (1) Those Chinese laborers who have not been to the United States will be strictly prohibited from going thither. (2) Those Chinese laborers who have returned to China from the United

States, where they have no wife or family or relations, money, or property, will not be allowed to go back thither. (3) The Chinese who are now resident in the United States should be entitled to proper protection in conformity with the treaty stipulations. The detailed and minute provisions of the regulation relating to the above are to be discussed and decided upon by me (the Chinese minister) and the honorable Secretary of State. The British minister in Peking has also been communicated with on the subject by the foreign office, with a request that his Government may be informed thereof, to the end that the governor of Hong-Kong may be instructed to assist the Chinese Government in strictly carrying out these regulations to their fullest extent, a copy of which was some time since sent over to your Department.

In your note of the 12th January last an inhibition was proposed of the immigration of Chinese laborers into the United States for a term of years, and a discussion together of measures for carrying out the same was suggested, so that when agreed to they might be communicated to the Senate for consideration. And in reply of the 15th January last I said I had also several things to propose for your excellency's consideration.

Now, I have, in conformity with the instructions from the foreign office, carefully drawn out in detail certain provisions in connection with the proposed prohibition and restriction of the coming of the Chinese laborers into the United States, and the proper protection of the Chinese that are now in the United States, which I send herewith to your excellency, so that we may together discuss the same, in the hope that, when they are agreed upon, you may communicate the same to the Senate and I to the foreign office, for their respective consideration; and upon their approval by the latter the decree of my sovereign will be asked for the permission to have them supplemented to the treaty of November 17, 1880, in order that they may be faithfully carried out by both Governments.

The proposed provisions are as follows:

(1) China, having of her own accord prohibited the immigration of its subjects into the United States, will do so from time to time in such manner as may be required by circumstances, there being no necessity for fixing a certain period for that purpose.

(2) No Chinese laborer who has never been to the United States shall be permitted to go thither. Any such laborer who shall be detected in attempting to go to the United States by fraudulently making use of a return ticket and by personating the name of the person mentioned therein will be visited with a heavy fine.

(3) Any Chinese laborer who has returned to China from the United States can not go thither again unless he really has there his family or relations, money, or property, or accounts contracted through him pending settlement. But before he embarks for the United States he must furnish to the consul-general at San Francisco, for his examination, a full statement setting forth the names of the members of his family or relations, the locality where he has his money or property, and the names of the parties connected with the pending accounts.

(4) Any Chinese laborer who, returning to China from other countries, may desire to pass *in transitu* through the United States should be permitted to do so as hitherto without let or hindrance.

(5) From henceforth any Chinese laborer who desires to leave the United States for China shall, before his departure, report to the consul-general at the port of San Francisco whether or not he has in the United States a family or relations, money or property, or any accounts

pending settlement, in order that the above may be inserted in the certificate for the purpose of examination and investigation.

(6) The exempt class of Chinese subjects, whether proceeding to the United States as teachers, students, merchants, or from curiosity, if possessed with certificates or documents of proof of other description, shall be at once permitted to land without any detention under any pretense.

(7) In the two annual messages of 1885 and 1886 of the President of the United States to congress, his excellency expressed his anxiety for the maintenance of harmony and friendship between the two countries, for the extension of protection over the Chinese subjects in conformity with the treaty stipulations, for the strictly warning of American subjects against ill-treating the Chinese subjects, and that no oppression of individuals of a special race should be tolerated. This gave evidence of the desire of the President to strengthen the friendly relations between the two countries, which is fully appreciated by both the Chinese Government and its subjects. It is now desirable that the President should be respectfully requested to proclaim to the public that, with a view of preventing its subjects from suffering ill-treatment in the foreign distant land, the Chinese Government has, of its own accord, prohibited the coming of Chinese laborers into the United States; that this measure will ensure the reduction of the number of the Chinese laborers in the United States; that the Chinese subjects, American citizens as well as aliens, shall live peaceably together without any prejudice against each other; that it is provided by article 4 of the treaty of 28th July, 1868, that Chinese subjects in the United States shall enjoy entire liberty of conscience, and shall be exempt from all disability or persecution on account of their religious faith or worship in the United States, and that any person who may hereafter commit acts of murder, arson, and robbery, similar to those in the past, against the Chinese shall be severely punished without the least leniency.

(8) It is desired that a United States marshal or other officer should be appointed, and have his office in San Francisco, whose duty it should be to especially attend to those cases wherein Chinese and Americans may be concerned that may have occurred in all the States or Territories of the United States of America. It is necessary that many United States officers should be employed in the places where the Chinese are settled, for the purpose of making inquiries from time to time. If they should hear of any wicked band planning to do injuries or violence against the Chinese they should report the same by telegraph to the United States marshal or other officer thus appointed, to the end that efforts may be made for their protection, and for the arrest and punishment of the wicked band.

(9) It is desired that instructions should be given to the military and civil local authorities of all the States and Territories to take, from time to time, active measures for watching the circumstances attending the doings of the respective laboring classes of China, America, and other countries, and that if they should find any feeling of discord amongst them they should make preparations for any emergency of disorder that may arise, either by employing extra number of police officers or enlisting militia for the purpose of suppressing any riot that may break out, and for patrolling the streets, to the end that dangers may be averted by the adoption of precautionary measures. It is further desirable that in case of any outrage, such as arson or expulsion, being committed against the Chinese by lawless bands in any State or Territory, or if

under contemplation, the local authorities on learning of the same may be permitted, as they deem proper, to summon by telegraph the assistance of troops from the vicinity for the suppression of the same, and the officer commanding the same shall at once proceed thither with his troops. There are precedents for this in the treatment and protection of American merchants and missionaries in China by the Chinese Government.

(10) It is to be hoped that hereafter if any persons, acting in concert, are guilty of assailing and killing the Chinese with fire-arms they will be punished by hanging, as a warning to others. Those who aid and abet in the assault, armed, should be severely dealt with, and not be permitted to escape punishment. I don't allude now to ordinary and isolated cases of assault between individuals.

(11) Simple expulsion by force of the Chinese by lawless persons, though unaccompanied by arson, murder, or robbery, or bodily injury, is still a violation of the treaty stipulations, and a deliberate purpose to create disorders, and the perpetrators should be punished according to their relative guilt as leaders or followers. The foregoing provisions, Nos. 7, 8, 9, 10, and 11, will show what measures I think desirable to have adopted to secure the protection of Chinese subjects in this country in conformity with the treaty stipulations. It is the Government of the United States, and not the State nor local governments, which guaranties to exert all its power to devise measures for the protection of Chinese subjects in the United States, and for this reason I have made the foregoing suggestions. They may not be altogether in conformity to the usual practice in the United States, but they are very much like what the United States ministers and consuls have asked my Government to do, and which it has done for Americans in China. If I correctly understand what has been decided, only a few days ago, by the Supreme Court in this capital, there is no law of the Congress of the United States to punish wicked men for conspiring to injure or intimidate Chinese subjects, or thereby murdering, wounding, assaulting, or robbing them. But the court says that the Congress has the power to pass such laws, and to have them enforced by the Government officers and in its courts, and that it may pass such laws as are necessary to carry out treaty stipulations. If, then, in my foregoing suggestions, I have not conformed in all respects to the practice of your country, I think this very respectable court has sanctioned the spirit of my suggestions, and your excellency's great wisdom in the practice and duty of your Government will enable you to accept in some amended form the propositions I have made, and we may thus be able to agree upon measures to carry out the guaranties of the treaty which have up to this time been so often violated with impunity.

(12) With regard to the losses and damages sustained by the Chinese in all the cases of cruel outrage against them in past years, it is requested that the United States Government should do justice and award indemnities in every case. It is suggested that this can be done by following the precedent in the claims convention of November 8, 1858, by paying to the Chinese Government a sum sufficient to cover all losses, and this sum to be distributed by China, or by agreeing upon a claims commission to estimate and award the losses.

(13) Chinese merchants who belong to the exempt class mentioned in the treaty, on their landing at the port of San Francisco, have been often subjected to inconveniences and troubles by being compelled to appear in court, through the acts of the local authorities at that port, in investigating and discriminating the cases of returning Chinese la-

borers thereto in past years. Hereafter they should be permitted to land upon the presentation of their certificates or production of evidence or bond of security, without the necessity of going into court for examination.

(14) By article 18 of the treaty of 1858, there is a provision relating to extradition. It would be well to make a treaty agreement, so that hereafter, if any criminals who are Chinese subjects should take refuge in the United States, they may be delivered up to the Chinese consuls in order to be returned to China for trial and punishment.

(15) In former years a duty at the rate of 10 per cent. on its cost value was levied on imported rice from China to American ports; at a later date it was raised to $1 for each 100 pounds; and, in 1864, on account of the civil war, it was increased to $2.50 per 100 pounds, just about equal to the cost value of the rice in China. In 1883 it was reduced to $2.25. Now you are enjoying peace and prosperity and your treasury is overflowing, can not you afford to reduce the duty? The Chinese subsist upon rice as your people do upon wheat. It's high price is a grievous burden upon the poor class of Chinese in this country; it is right, therefore, to ask your Government to take the subject into its kind consideration to the end that the duty may be reduced to $1 per 100 pounds, for which the Chinese will feel very grateful. Of course I can not expect that your Government will take off the entire duty as you have from tea and Chinese starch.

[Inclosure—Translation.]

A communication from the foreign office to the British minister at Peking, sent on the 4th day of the 7th month last year (*3d August*, 1886).

SIR: We have the honor to inform you that cases of repeated outrages recently committed against the Chinese in the United States have rendered it necessary for us to write to the British minister in Peking, and also to the Chinese minister in Washington, with a request that he should communicate with the honorable Secretary of State on the subject, begging him to cause protection to be extended over the Chinese laborers residing there in conformity with the treaty stipulations, and also to the use of strenuous efforts for the apprehension of the perpetrators of the outrages.

The prejudice of the people of the United States against the Chinese laborers is so intense that it is next to impossible to remove it, and if no timely precautionary measures are taken in the matter there may be no end to disasters.

Now China proposes to prohibit of her own accord the emigration of Chinese laborers into the United States. No Chinese laborer will be permitted to go to the United States, nor any Chinese laborer who has returned to China from the United States where, if he has no family or relations, money or property, will be allowed to go back thither, in order that the Chinese laborers who remain in the United States may gradually be reduced in number, causes of danger be averted, and lives preserved.

It appears from inquiries made that Chinese laborers going to the United States generally embark in steamers that sail from Hong-Kong, which renders the examination intended to be made by the Chinese officials difficult. For this reason we have the honor to request that you will kindly communicate with your Government on the subject, to the end that instructions may be given to the governor of Hong-Kong, to devise measures for the examination and prohibition of the emigration above referred to, and to disallow any vessel of any nationality to carry any Chinese laborer as passenger for any port in the United States, so as to strike the evil at its very root. Thereby the future troubles may be avoided.

In former years Peru and Spain trafficked in Chinese, and the Hong-Kong government assisted in terminating the evil by examination and prohibition. But the outrages committed against the Chinese laborers in the United States by burning and expulsion are comparatively worse than the traffic alluded to.

Your Government is noted for its benevolence and we feel sure that it will not fail to accede to our request in rendering its assistance in the matter.

No. 245.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, April 11, 1887.

SIR: I have the honor to transmit for your consideration and approval a draught of a convention embodying those views as to the prohibition of the future coming to this country of Chinese laborers, which, I believe, from our conversations heretofore had, meet our joint approval.

In view of your contemplated departure from the United States, I shall be glad, if it will suit your convenience, to meet you at this Department at 11 a. m. of Wednesday next, the 13th instant, for the consideration of the very interesting subject contained in the documents which I have now the pleasure to submit to you.

Be pleased, also, to receive my comments upon the paper expressive of your views and wishes in relation to extradition, and to the execution of treaty stipulations relating to Chinese subjects by the police powers of the United States.

Accept, etc.,

T. F. BAYARD.

[Inclosure 1.]

Draught of Convention to Regulate Emigration from China to the United States.

Whereas, on the 17th day of November, A. D. 1880, a Treaty was concluded between the United States and China for the purpose of regulating, limiting, or suspending the coming of Chinese laborers to and their residence in, the United States;

And whereas the Government of China, in view of the antagonisms and much deprecated and serious disorders to which the presence of Chinese laborers has given rise in certain parts of the United States, desires to prohibit the emigration of such laborers from China to the United States;

And whereas the Government of the United States and the Government of China desire to coöperate in prohibiting such emigration, and to strengthen in other ways the bonds of friendship between the two countries;

Now, therefore, the President of the United States has appointed ——— ——— as his Plenipotentiary; and His Imperial Majesty the Emperor of China has appointed ——— ——— as his Plenipotentiary; and the said Plenipotentiaries, having exhibited their respective Full Powers found to be in due and good form, have agreed upon the following articles:

ARTICLE I.

The High Contracting parties agree that for a period of twenty years, beginning with the date of the exchange of the ratifications of this Convention, the coming, except under the conditions hereinafter specified, of Chinese laborers to the United States shall be absolutely prohibited.

ARTICLE II.

The preceding article shall not apply to the return to the United States of any Chinese subject who has a lawful wife, child, or parent in the United States, or property therein of the value of one thousand dollars, or debts of like amount due him and pending settlement. Nevertheless, every such Chinese laborer shall, before leaving the United States, deposit, as a condition of his return, with the collector of customs of the district from which he departs, a full description in writing of his family or property, or debts, as aforesaid, 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 now or hereafter prescribe; and should the written description aforesaid be proved to be false, the right of return thereunder, or of continued residence after return, shall in each case be forfeited.

ARTICLE III.

The provisions of this Convention shall not affect the right at present enjoyed of Chinese subjects, being officials, teachers, students, merchants, or travelers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein.

It is also agreed that Chinese laborers shall continue to enjoy the privilege of transit across the territory of the United States in the course of their journey to or from other countries, subject to such regulation by the Government of the United States as may be necessary to prevent said privilege of transit from being abused.

ARTICLE IV.

This Convention shall remain in force for a period of twenty years, beginning with the date of the exchange of ratifications; and if, six months before the expiration of the said period of twenty years, neither Government shall formally have given notice of its termination to the other, it shall remain in full force for another like period of twenty years.

[Inclosure 2.]

Memorandum on propositions left at the Department by the Chinese minister on the 18th of March last, respecting the emigration of Chinese subjects from China to the United States, and other subjects.

The memorandum left at the Department by his excellency the minister of China, on the 18th ultimo, after reciting the provisions of article 3 of the immigration treaty of 1880, and discussing the treatment of Chinese subjects in the United States during the past few years, submits for the consideration of the Department fifteen propositions looking to the adjustment of various questions.

The first proposition is, that China, having of her own accord prohibited the emigration of her subjects to the United States, will do so from time to time in such manner as may be required by circumstances, there being no necessity for fixing a certain period for that purpose.

The second proposition relates to the same subject and particularly to the punishment by China of her subjects who fraudulently attempt to emigrate to the United States.

The third proposition provides that no Chinese laborer who has returned to China from the United States shall be permitted to return hither unless he has a family or relations, money or property, or accounts pending settlement.

Proposition fourth touches the transit through the United States of Chinese laborers returning to China or going to other countries.

Proposition 5 provides that any Chinese laborer who desires to return to China from the United States shall, before his departure from the latter country, report to the consul-general of China at San Francisco, whether or not he has in the United States any family or relations, etc.

Under proposition 6 it is provided that the exempted classes of Chinese subjects possessing a certificate or other documentary proof of their character shall be at once permitted to land without any detention under any pretense.

Proposition 7 contains a request that the President proclaim to the public with a view to preventing Chinese subjects from being further ill-treated in the United States, that the Chinese Government, of its own accord, has prohibited the coming of Chinese laborers to the United States, etc., and that any person who may hereafter commit acts of murder, arson, and robbery, similar to those in the past against the Chinese, shall be severely punished without the least leniency.

Proposition 8 outlines a special system of police for the protection of the Chinese in the United States, and suggests the appointment of a special officer at San Francisco to attend to such cases of difficulty between Chinese and other persons as have lately taken place.

Proposition 9 suggests that instructions be given to the military and civil authorities of all the States and Territories to take from time to time active measures for watching the development of circumstances, with a view to the prevention of outbreaks or disorders either by employing an extra number of police officers or enlisting militia, etc.

Proposition 10 suggests that hereafter if any persons acting in concert are guilty of assailing or killing Chinese by fire-arms they shall be punished by hanging, as warning to others. Those who aid or abet in the assault in arms to be severely dealt with, and not be permitted to escape punishment. This proposition, however, has no reference to ordinary and isolated cases of assault by one individual upon another.

In addition to the measure suggested in the preceding proposition for the protection of Chinese, the minister refers, in proposition 11, to the recent decision of the Supreme Court that no law of the United States at present in force provides for the punishment by the courts of the United States of persons who attempt to expel Chinese. The minister intimates that some such law should be adopted.

Proposition 12 suggests the payment by the United States to China of a sum sufficient to cover all losses and injuries to Chinese in the United States from mob violence; this sum to be distributed by China, as was done by China under the claims convention of November 8, 1858. If this is not acceptable, his excellency suggests that a claims commission be organized to decide upon the losses and injuries.

Proposition 13 suggests that the exempted classes of Chinese coming to the United States should be permitted to land upon the presentation of their certificates or production of other documentary evidence, or on giving proper security, without the necessity of going into court for examination.

Proposition 14 relates to extradition, and suggests that a treaty be made for the return to China of fugitive Chinese criminals.

Proposition 15 suggests the reduction of the duty on rice from $2.25 a hundred pounds, the present duty, to $1 a hundred pounds.

From this résumé it appears that seven of his excellency's propositions, namely, the 1st, 2d, 3d, 4th, 5th, 6th, and 13th, relate to the subject of emigration. Five, namely, the 7th, 8th, 9th, 10th, and 11th, relate to the protection of Chinese in the United States. Of the remaining three propositions one relates to claims, another to extradition, and the third to the duty on rice.

It is understood that these propositions are submitted by his excellency as an outline of the provisions which his Government would desire to see embodied in a convention with the United States. The project of a convention submitted by the Secretary of State to the minister of China on the 12th of January last related solely to the restriction of Chinese immigration to the United States. The Department, however, being desirous of reaching, as far as may be practicable, a conventional solution of the question now under consideration between the two Governments, is ready to extend the scope of its former proposal. For this purpose it herewith submits a draft of a convention, consisting of a preamble and five articles.

The preamble contains the acknowledgment desired by His Excellency in the first proposition of his memorandum of the desire of China to prohibit the emigration of her subjects to the United States.

The first article proposes a prohibition, except under certain conditions afterwards specified in the draft, of Chinese laborers to the United States for a period of twenty years.

Article two provides that the preceding article shall not apply to the return to the United States of Chinese subjects who have families in the United States, or property therein of the value of $1,000, or accounts of like amount due them and pending settlement. It is, however, required that Chinese subjects desiring to return to the United States shall furnish the authorities of the country proper evidence of their title to return.

Article three provides that the Convention shall not affect the right at present enjoyed of Chinese subjects, being officials, teachers, students, merchants, travelers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein. It is also provided in this article, as His Excellency desired, that Chinese laborers shall continue to enjoy the privilege of transit across the territory of the United States in the course of their journey to and from other countries.

Article four provides that the Convention shall remain in force for a period of twenty years, and thereafter for a like period, unless notice of termination shall be given by one of the contracting parties six months prior to the expiration of the first period of twenty years.

It is believed that this draft substantially covers and meets those propositions of His Excellency's memorandum relative to the subject of emigration. In respect, however, to propositions 7, 8, 9, 10, and 11, which contain the specific suggestions of His Excellency as to the measures which he thinks it desirable for the Government of the United States to take for the protection of Chinese laborers in this country, the Department has found itself unable to meet his suggestions or to formulate any counter proposition. As has already been seen, it is proposed under the seventh head that the President shall issue a proclamation that Chinese and other aliens shall live peaceably together, and that any person who may hereafter commit acts of murder, arson, and robbery, similar to those in the past against the Chinese, shall be severely punished without the least leniency. This proposition is at variance with the constitutional principles of the American Government, and is not based on any treaty provision. The Executive Department of the Government of the United States, of which department the President is the head, may aid in the prosecution of offenses, but can neither try nor punish them. Every man charged with the commission of a crime in the United States is entitled to a trial according to the law of the land. This is a

right guaranteed by the Constitution and cannot be taken away either by treaty or by an act of Congress. In infamous crimes, such as are described by His Excellency, a part of the law of the land is that no person shall be tried except on the presentment of a grand jury. Every man charged with the commission of such a crime in the United States, and so presented for trial, is entitled to be tried by a jury impartially selected, and if found guilty, sentence is imposed by the court trying the case, and not by the President, who can remit but cannot impose penalties.

Proposition 8 outlines a sort of special detective system, which would be an anomaly in our history.

Proposition 9 contains certain provisions which require more particular attention. It is asked that this Government give "instruction to the military and civil local authorities of all the States and Territories" for certain purposes; and it is further asked that "in case of any outrage such as arson or expulsion being committed against Chinese by unlawful bands in any State or Territory, * * * the local authorities on learning of the same may be permitted to summons * * * troops," etc.; and it is said that "there are precedents for this in the treatment and protection of American merchants and missionaries in China by the Chinese Government."

In proposition 11 it is said, in reference to the protection of the Chinese, that "it is the Government of the United States, and not the State or local government, which guaranties to exert all its powers to devise measures for the protection of Chinese subjects in the United States. * * * They (these suggestions) may not be altogether in conformity to the usual practice in the United States, but they are very much like what the United States ministers and consuls have asked my Government to do, and which it has done for Americans in China." It is thus seen that his excellency asks the Government of the United States to direct the local authorities of the States as well as of the Territories as to the steps to be taken for the protection of the Chinese; and the justification of this request is stated to be that there are "precedents for this in the treatment and protection of American merchants and missionaries in China by the Chinese Government," and that the ministers and consuls of the United States in China have asked that Government to do what is now asked of the United States. Why have the ministers and consuls of the United States asked such things? Merely because under the treaties the Government of China is expressly bound to grant protection in the form stated; the United States is not. In all the treaties from 1844 down to the present time the Chinese Government has undertaken to oversee and direct and guaranty the protection of American citizens in China through the local authorities in that country. Beginning with the treaty of 1844, we find in the fourth article an express stipulation by the Government of China that if the consuls of the United States at the open ports in China are "disrespectfully treated or aggrieved in any way by the local authorities, said officers on the one hand shall have the right to make representation of the same to the superior officers of the Chinese Government, who will see that full inquiry and strict justice be had in the premises." In the eighth article of the same treaty it is provided that citizens of the United States shall be permitted to hire servants, seamen, etc., "for a reasonable compensation, to be agreed on by the parties or settled by application of the consular officers of their Government, without interference on the part of the local officers of the Chinese Government." In the seventeenth article it is provided that, "in order to the preservation of the public peace, the local officers of each of the five ports shall, in concert with the consuls, define the limits beyond which it shall not be lawful for citizens of the United States to go." In the nineteenth article it is stipulated by China that all citizens of the United States in China "shall receive and enjoy for themselves and everything pertaining to them the special protection of the local authorities of the Government, who shall defend them from all insult or injury of any sort on the part of the Chinese;" and it is also provided that if the dwellings or property of citizens of the United States be attacked by mobs or other lawless bands of persons, "the local authorities, on requisition of the consul, will immediately dispatch a military force to disperse the rioters, and will apprehend the guilty individuals, and punish them with the utmost rigor of the law." Also in the twenty-fourth, twenty-sixth, twenty-seventh, twenty-ninth, and thirty-second articles of the treaty of 1844 we find express guaranties of the Chinese Government as to the conduct of the local authorities. The treaty of 1858 contains almost a complete repetition of the provisions above cited. (See articles 10, 11, 13, 18, 28.)

It is thus seen that the measures which his excellency has requested this Government to adopt are substantially those that the Chinese Government has stipulated and employed for the protection of Americans in China. The American minister and consuls, in calling upon the Chinese Government to perform those stipulations, have simply requested China to execute the treaty in conformity with her own institutions. China's call on us is to revolutionize our institutions. This proposition it is unnecessary to discuss.

In respect to the proposition for the payment of claims, it is proper to say that, as no money can be applied to such a purpose without a specific appropriation by Con-

gress, the Department thinks it best that each case should be submitted to Congress on the merits for such action as may be proper. This course, in the case of the Rock Spring difficulty, resulted in the appropriation by Congress of a sum to indemnify Chinese subjects for losses incurred by that unfortunate occurrence.

In respect to the suggestion that this Government reduce the duty on rice to $1 a hundred pounds, it may be said that this also is a matter for Congressional action, which can not be anticipated by the executive department of the Government.

The Department is of opinion that, owing to the totally opposite systems of criminal procedure in the respective countries, an extradition convention between the United States and China is impracticable. Moreover, if the draught herewith submitted of a convention to restrict immigration of Chinese laborers to the United States should be agreed upon by the Government of China, it would be impossible for the United States to become, except to a very limited extent, an asylum for fugitive Chinese criminals.

No. 246.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,

Washington, D. C., August 16, 1887. (Received August 17.)

SIR: I have the honor to acknowledge the receipt of the draught of a convention which accompanied your note of April 11 last. In the interview I had the pleasure of having with you on the 13th of April last, I pointed out to you some words in the draught which I considered as not well defined, and I also invited your attention to some articles in the memorandum which I had sent you that you did not agree to, as well as something you subsequently declined to carry out, though you had led me to expect it.

You kindly assured me that the matters would receive your proper consideration and mutual discussion.

This gives evidence of the candid spirit which has always controlled your conduct in your relations with this legation, and of your desire to maintain the cordial friendship existing between the two Governments, for which I express my deep sense of gratitude. The following words of Article II of your draught, "as the laws of the United States may now or hereafter prescribe," and of Article III, "subject to such regulation by the Government of the United States as may be necessary," etc., should require some slight modification.

It would seem desirable to so restrict such "laws" and "regulations" as to require them to be consistent with the letter and spirit of existing treaty stipulations, and of such a nature as not to be unduly harsh or vexatious to the Chinese subjects. I beg to inform you that there are two essential articles which ought to be inserted in the present draught. The first of these is about the protection which should be secured to the Chinese laborers now in the United States. The Imperial Government, in order to prevent its subjects from suffering all descriptions of hardship and misery, is quite willing to suspend, by some measures, the immigration of that class of His Majesty's subjects whose free entrance is stipulated by the treaty of 1868, but in doing so it feels that in justice and equity the same convention which provides for this suspension should contain an article providing specifically for the protection of the life and property of those now lawfully in the United States.

A careful examination has been made of the memorandum accompanying your note, which gives the reason why such an article was omitted from the draught of the convention prepared by you, and that examination makes me fear my memorandum left with you on March 18 last has

not been correctly understood. In the latter memorandum I made some suggestions in regard to the form in which I should be glad to see protection extended to the Chinese in the United States, but I at the same time expressed my doubts as to whether they would be found to conform to the usual practice in the United States, and I appeal to the great wisdom of your excellency to suggest a form of stipulation which would reconcile the plain treaty guaranties with your governmental system and practice, so as to prevent future controversies.

I have been much grieved to learn that my memorandum has been understood to be a call on the United States to "revolutionize its institutions." I did make certain suggestions as to methods to be adopted for the enforcement of treaty guaranties, because similar methods had been called for by American ministers and consuls in China; but what I was desirous of obtaining was the substance and certainty of protection, and the form or methods of protection I was quite willing to leave to you to draught.

It is hardly deemed necessary to go over in detail the citations made in your memorandum of the treaty of 1844. It would be easy to show that the action of the Chinese Government taken at the request of American ministers and consuls has been much beyond the treaty stipulations. Article 19 of the treaty of 1844 and its re-enactment in 1858 merely place Americans "on a common footing .* * * with subjects of China," and none of the treaties pledge the authorities to measures of reparation beyond the punishment of the violators of the law. But the American representatives have demanded and received much greater reparation, as was specifically shown in the legation note of November 30, 1885. It is to be borne in mind that the treaty of 1844 was entered upon under peculiar circumstances, which no longer exist. Although China has maintained a stable government of law and order for ages, its system was not then well known by practical intercourse to the United States, and it was willing to offer special guaranties, which were incorporated in that treaty. If reciprocal stipulations were not required of the United States, it was because China had confidence in the good faith of its friend, and believed that its system of government and laws was sufficient to secure protection to the Chinese who should come into its territory. The years which have elapsed have shown the practical workings of the treaty guaranties and international obligations in the two countries.

In China, so far as is known, not a single American has lost his life by mob violence; while in every case where injury has been done to the property and rights of American citizens by conspiracy and mobs, punishment has been promptly inflicted upon the guilty, and full pecuniary indemnity has been made by the authorities. This has been so conspicuous that an American official of high rank and large experience, whose business it was by appointment of his own Government to investigate the subject, and whose testimony was quoted in inclosure No. 4 to legation note of November 30, 1885, states that Chinese subjects in their own ports have suffered much more injury from Americans in China than has been inflicted by the latter on the former, and that Chinese officials have been faithful and punctual in carrying out treaty obligations against their own countrymen. On the other hand, the correspondence of this legation shows that in the past three years more than thirty Chinese have been murdered through mobs in the United States, and that so far as known not a single punishment has been inflicted on the murderers; tens of thousands of peaceable and law-observing Chinese have been forcibly and in great fright driven

out of their abodes and compelled to abandon their employment in the State of California and in the Western Territories, and the authorities have administered no punishment on the wicked men who have done these unlawful deeds; and losses to the extent of hundreds of thousands of dollars have been suffered by the Chinese in these same localities at various times through the acts of bands of lawless people, and in only one case, and that through the kind intervention of the President and your excellency, has reparation thus far been made, and in no instance have the local authorities shown any disposition to make indemnity.

China is not now asking to be released from the treaty stipulations of 1844 and 1858, but it does feel that when the United States for a second time asks that the immigration stipulations of the treaty of 1868 be amended and restricted some degree of reciprocity in treaty guaranties as to protection should be enacted and enforced, and it appeals to the experience of Chinese laborers in the United States as its warrant for such a claim. The memorandum attached to your note states that "under the treaties the Government of China is expressly bound to grant protection in the form stated; the United States is not." No, it may be answered, not in the same form, but in equal measure. It can not be believed that you would insist that China is bound to grant a greater measure of protection to Americans in its territory than your Government is willing and able to grant to Chinese in the United States. Neither would you claim that protection to life and property is more certain and ample in China than it is or can be made in the United States. Nor would you admit that the difference in the system of government makes this protection less efficient in the United States, or that this difference would release your Government from its treaty obligations to enforce protection. All that I sought to obtain by submitting my suggestions as to methods of protection was to secure to Chinese laborers in the United States the same measure of protection as is extended to Americans in China. If this is impossible under its system, then it must be inferred that the Government of the United States is impotent to discharge its international obligations, and I am unwilling to be understood as bringing such an insinuation against this great and powerful nation. I understand that its first teacher of international law has laid down the doctrine that "the whole international code is founded on reciprocity" (Wheaton, 6th ed., p. 421). And the Supreme Court of the United States in the very month in which I left my memorandum with you declared that "if the United States can require this (protection of its coinage and currency) of another (nation), that others may require it of them, *because international obligations are of necessity reciprocal in their nature.* The right, if it exists at all, is given by the law of nations, and what is law for one is, under the same circumstances, law for the other" (The United States *vs.* Ramon Arjona, March 7, 1887).

As it is apparent the Chinese laborers in the United States have not been afforded protection, while Americans in China have been afforded ample protection, it would seem that the claim which China now makes is reasonable, that some specific treaty stipulation be enacted and enforced to secure their protection for the future. The United States agreed in Article III of the treaty of 1880 to "exert all its powers to devise measures for their protection." I took the liberty to refer to a recent decision of the very honorable Supreme Court which points out quite clearly what power the Government possesses in this respect and what are the defects of existing legislation; and in another decision

rendered on the same day it set forth the obligations of the Government. It is believed that an examination of these two decisions will sustain in substance my claim that a new treaty article as to protection ought to be added to your draft. From the decision of the Supreme Court delivered by the Chief-Justice, in the case of Baldwin *vs.* Franks, United States marshal, March 7, 1887, it appears that there is a law of the Congress which, among other things, provides (Sec. 5508, R. S.) a severe punishment for conspiracy to injure or intimidate citizens in the exercise of their civil rights; and (Sec. 5509) also punishes for any murder, arson, robbery, or other felony or misdemeanor committed as the result or part of said conspiracy. It decides that it is within the power of Congress to enact such legislation, but that because Chinese are not citizens the law in its present form is not applicable to offenses of the character described committed against them. Still it quotes Article III of the treaty of 1880 and makes the following declaration:

> That the United States have power under the Constitution to provide for the punishment of those who are guilty of depriving Chinese subjects of any of the rights, privileges, immunities, or exemptions guarantied to them by this treaty we do not doubt.

And in construing the law just cited, it adds:

> It may be that by this construction of the statute some are excluded from the protection it affords who are as much entitled to it as those who are included; but that is a defect, if it exists, which can be cured by Congress, but not by the courts.

In the case of the United States *vs.* Ramon Arjona, March 7, 1887, the Chief-Justice, in delivering the opinion of the court, used the following language:

> The National Government is in this way made responsible to foreign nations for all violations by the United States of their international obligations, and because of this Congress is expressly authorized to define and punish offenses against the laws of nations. The law of nations requires every national government to use due diligence to prevent a wrong being done within its own dominions to another nation with which it is at peace, or to the people thereof. * * * A right secured by the law of nations to a nation, or its people, is one the United States, as the representatives of this nation, are bound to protect. Consequently, a law which is necessary and proper to afford this protection is one that Congress may enact, because it is one that is needed to carry into execution a power conferred by the Constitution on the Government of the United States exclusively. There is no authority in the United States to require the passage and enforcement of such a law by the States. Therefore, the United States must have power to pass it and enforce it themselves, or be unable to perform a duty which they may owe to another nation, and which the law of nations has imposed on them as a part of their international obligations.

In view of the foregoing it is believed that you will be willing to draft an article, to be added to the proposed convention, somewhat similar to Article XIX of the treaty of 1844, and Article III of the treaty of 1880, or a stipulation for protection to Chinese laborers secured by laws of Congress to the extent indicated by the Supreme Court as consistent with the system of government.

The second article which I regard as desirable in order to secure the approbation of my august sovereign, is one respecting the indemnities to be granted for the injuries sustained by the Chinese laborers in their persons and property through mob violence. It seems manifest that no punishment will ever be inflicted on the wicked men who did these acts, and that the local authorities will make no compensation for their losses, and the only recourse is to the Government of the United States. I can not understand why the absence of a specific appropriation by Congress should be the reason for not reaching some international method of settling the claims growing out of these unlawful occurrences, especially as I find that this has been the usual practice of the United States with

other nations, and claims conventions with them have always preceded a specific appropriation from Congress. While I recognize the magnanimous conduct of Congress respecting the riot at Rock Springs, I recall the fact that my legation has presented a number of cases of mob violence in different localities, representing a large number of claimants, and I fear it would be placing them in an unfavorable position to submit their examination to such a body as Congress, already burdened with its legitimate duties, and before which it would not be proper for the representative of a foreign government to have a hearing.

I again commend to you the method of settlement reached by the United States and China under the claims convention of 1858, and, if that is found impracticable, I ask that the usual practice of the United States with foreign governments may be in this instance followed.

In conclusion, I venture to express my disappointment at the decision reached by you on the subject of the extradition of criminals, as from my previous interview I had been assured that an agreement on that subject would have been easily reached. I do not see why the "opposite system of criminal procedure in the respective countries" should render an extradition convention impracticable, especially since I am informed that the Government of the United States has very recently negotiated such treaties with Japan and Russia, the neighbors of China, the criminal procedure of each of which nations is understood to be very different from the system of the United States. I therefore commend to your excellency again the expediency of making a separate treaty stipulation on the subject, with a view of carrying out your promise.

Accept, sir, etc.,

CHANG YEN HOON.

No. 247.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, December 28, 1887.

SIR: I am constrained in the interests of that international comity which we both desire so fully to promote and sustain to attract your excellency's attention to certain late disclosures in the course of judicial proceedings at San Francisco in which certain Chinese subjects were arraigned for violation of existing laws of the United States relative to the restriction of the immigration of Chinese laborers, passed for the enforcement of the existing treaties with China.

From the published letters of the judges and the public report of the proceedings in these trials the facts seem to be established that a systematic evasion of the restriction upon the immigration of Chinese laborers imposed by laws passed in pursuance of the treaties has been and continues to be practiced by Chinese professing to have gone away from the United States and claiming the right to return hither under the provisions of the treaty.

The details of these disclosures are shocking and unnecessary for repetition in this correspondence; suffice it to say that an extensive traffic in immorality of the grossest nature, by which Chinese women are imported into the United States and bought and sold into infamy by their own countrymen, is clearly proven to have been carried on.

The systematic violation of the treaty of 1880, and of the restrictive act of the United States passed in 1882, was averred by the eminent judge (Hoffman) before whom part of the cases were tried, and were also stated by another judge (Sawyer) in a published letter to the Hon. Mr. Morrow, M. C., dated November 21, 1887.

The intelligent vigilance exercised by you over the affairs and interests of your countrymen in the United States will have, doubtless, prepared you for these statements; and I have no doubt whatever that you have been duly informed of the transactions referred to, and that you feel equally with me a sincere regret therefor, and a desire to prevent their possible recurrence. I need scarcely tell you of the strong feeling that has been aroused in the public mind in this country by the occurrences referred to, and of the sentiment that has been renewed and re-invigorated in favor of more effective measures of restriction and prevention.

In considering the remedy I have great satisfaction in finding a complete accord between the Government you so honorably represent and that of the United States in desiring an absolute prohibition of Chinese laborers from coming into the United States from China.

A conventional arrangement to this end has already been proposed and measurably discussed between us, and a draught of such a treaty placed in your hands. Let me, therefore, invite your excellency, under the powers already held by you from your Government, to proceed with me, at your earliest convenience, in framing a just and wise convention in which China and the United States shall deal with this subject in a manner consistent with their sense of mutual respect and duty, and calculated to cement their amicable relations.

With this view, I now hand you, inclosed herewith, a draught of a *projet** upon the basis of which we can hopefully proceed to an agreement.

Accept, sir, etc.,

T. F. BAYARD.

No. 248.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, D. C., January 9, 1888. (Received January 9.)

SIR: I have the honor to inform you that during the last autumn and the present winter I repeatedly received from the foreign office in Peking and his excellency Viceroy Li Hung Chang, official dispatches and cablegrams relative to the accrediting of an envoy to the United States of America by Corea. The cablegram of the 11th of November, 1887, communicated to me the statement of a note from the Corean Government, to the effect that the Corean envoy would report his arrival to the Chinese legation here when he arrived in the United States, and would request the Chinese minister to present him at the State Department; that afterwards no further presentation would be necessary, and that the Chinese minister should interest himself in all matters whenever he should be asked to do so by the Corean envoy.

As Corea is a vassal state of China, and on the occasion of the treaty

*For inclosure see inclosure 1 in Doc. No. 245, *ante*, p. 371.

between the United States and Corea being made and entered into, a communication relative to the subject was made to your Government, it is right, therefore, that I should interest myself on behalf of the Corean envoy, who is on this occasion accredited to this country by his Government.

Yesterday I received a telegram from the Chinese consul-general at San Francisco, advising me of the departure, on the 4th instant, of the Corean envoy, Mr. Pak Ting Yung, from that port for this capital, and that he might be expected to arrive here in a day or two.

In due time I will present him to your excellency, only with a view of strengthening the bond of friendship of the three countries. With regard to the appointment of a date for the presentation of his credentials to the President of the United States, it is right that the Corean envoy himself should make the application to your excellency, in which it is hoped your excellency will kindly interest yourself, and that my company with him on his presentation to the President may be dispensed with.

Accept, etc.,

CHANG YEN HOON.

No. 249.

Mr. Bayard to Mr. Chang Yen Hoon

DEPARTMENT OF STATE,
Washington, January 10, 1888.

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, giving me knowledge of the communications to you from your Government in relation to the coming hither of an envoy from the Government of Corea to the United States.

Shortly after having been thus advised by your note I received from the envoy of Corea, Mr. Pak Chung Yang, a letter by the hands of his secretary asking an interview with me at this Department for the purpose of making an arrangement for the presentation of his credential letter to the President.

To this I have replied that I shall expect to receive the Corean minister on Friday next, the 13th instant, at 12 o'clock, noon, and shall thereafter at an early day accompany him to be presented to the President in official audience, in the usual manner.

Accept sir, etc.,

T. F. BAYARD.

No. 250.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, D. C., January 30, 1888. (Received January 31.)

SIR: I have the honor to acknowledge the receipt of your note dated the 28th of December, 1887, inclosing a draught of a *projet* for a treaty, and also relative to an alleged systematic evasion of the restriction upon the immigration of Chinese laborers imposed by laws passed in pursu-

ance of the treaties, being practiced by Chinese professing to have gone away from the United States and claiming the right to return hither under the provisions of the treaty.

In reference to the circumstances last above mentioned the Chinese consul-general at the port of San Francisco states, in his report to me, that, according to the United States census of 1880, the number of Chinese resident in the United States was over 150,000; that from the day the supplementary treaty of 1880 took effect to the day the act of restriction upon the immigration of Chinese laborers came into force, there were over 12,000 Chinese who left the United States to return to China and who should belong to the exempt class, not to come under the restrictive act; that of this number there are over 9,000 who have not yet come back to this country; that since the day the restrictive act came into operation up to the 29th of November, 1887, out of the number of Chinese who had obtained return certificates when they left the United States to go back to China, there were over 31,500 who had not returned hither; and that the number of the Chinese now resident in this country, compared with that of 1880, is lessened by 40 per cent. I am, therefore, of opinion that under the vigilant and strict measures adopted by the customs authorities in their examination of the Chinese coming and landing in this country, the class of Chinese falsely professing to have gone away from the United States and claiming the right to return hither under the provisions of the treaty can not be numerous.

The shocking traffic in immorality alluded to in your note, by which Chinese women were imported into the United States and bought and sold into infamy by their own countrymen is indeed detestable. I had heard of it previously, and I have repeatedly written to the viceroy and governor of Canton on the subject, requesting them to strictly charge the local authorities to make stringent efforts for the arrest and severe punishment of those who are guilty of the crime described. The Chinese at the port of San Francisco who had taken the warning and dreaded the punishment were afraid to give bond for the infamous women who were held for examination in court; consequently the customs authorities were able to prevent them from landing, and the consul-general was able to request the masters of the steam-ships, by which the women had come, to carry them back to China.

The consul-general further states in his report that the steam-ships *San Pablo*, *City of Sydney*, and *Oceanic*, which arrived at San Francisco on the 7th, 15th, and 29th of December, 1887, respectively, each brought only two or three Chinese women who had no return certificates, and who, on inquiry being made, were found to be persons not of infamy; thereupon the consul-general ordered the Chinese merchants of the city, some in large and some in small business, to give joint bonds for them on the condition that, if these women should thereafter be found leading a life of infamy, the Chinese public would entirely withdraw from dealing with the bond givers in business. I will, of course, from time to time, communicate with the authorities of Canton and urge on them the necessity of strictly prohibiting such traffic, by which means it is sincerely hoped that this evil may be prevented, and the importation into the port of San Francisco of women for immoral purposes may be stopped without further difficulty.

As to your proposition for a conventional arrangement and the draught of a *projet* indorsed by you, I beg to recall to your attention the fact that this identical *projet* was sent to me with your note of April 11, 1887, and that I had the honor to send you, on the 16th of August last, a memorandum note containing a detailed reply to your draught of treaty,

with a proposition by me for two additional articles which I regarded as essential to acceptance by my Government. It is inexplicable to me why there is no allusion to my memorandum note in your note under reply. If you will take into consideration the articles proposed in my note with those in your proposed draught, without confining yourself merely to the question of restriction upon the immigration of the laborers, but will also include the protection guarantied by the supplementary treaty, and, further, will make provision for the additional claims for indemnity submitted by me, then I shall hope that a mutual agreement as to the conventional arrangement will soon be arrived at.

I would have spoken to you regarding this matter in my last interview with you on the 13th instant, but for the pressure of business on your part. I therefore take pleasure in sending you this reply, and hope soon to have the opportunity to call again to discuss the subject on a day to be designated by you.

Accept, etc.,

CHANG YEN HOON.

No. 251.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,

Washington, February 16, 1888. (Received February 21.)

SIR: It is with great regret that I have to bring to your attention another case of outrage inflicted upon my countrymen, which resulted in the murder of ten Chinese laborers in the most horrible manner.

The consul-general at the port of San Francisco has reported to me that he received a joint petition dated the 18th of July, 1887, from Chea-Tsze-ke, Chea-Fook, Kong-shü, and Kong Chun, natives of the district of Punyu, Chinese subjects, who represent that at the beginning of the ninth month, the Chinese twelfth year of Kwong Su (October, 1886), their clansmen named Chea-po, Chea-Sun, Chea-Yow, Chea-Shun, Chea Cheong, Chea Ling, Chea Chow, Chea Lin Chung, Kong Mun Kow, and Kong Ngan, respectively, went to Log Cabin Bar, Snake River, State of Oregon, in a boat loaded with provisions, accompanied by another boat manned be Lee She and others, for the purpose of seeking for gold; that they had been pursuing their avocation peaceably until the beginning of the intercalary fourth month (the latter part of May and the greater part of June, 1887), when they were suddenly murdered by some unknown persons; that when Lee She and his party came out of the bar in their boat they found three bodies of Chea-po's party floating down the river and some provisions and bedding lying profusely at the entrance of the bar, and upon a search being made further found Chea-po's boat stranded on some rocks in the bar, with holes in the bottom, bearing indications of having been chopped with an axe, and its tie-rope cut and drifting in the water; that Mr. J. Vincent, commissioner of Nez Percés County, Idaho, visited the scene of the murder, and on examining the three bodies found a number of wounds inflicted by an ax and bullets; that the bodies of the others that had been murdered have not yet been found; that in the fourth month, last year (the latter part of April and the greater part of May, 1887), a person named Jackson told a Chinese named Hung Ah Yee that he had witnessed some cowboys, eight in number, forcibly driving Kong Shu

and his party out of the bar in their boat and throwing their provisions and bedding overboard; that Kong Shu and his party fled from them, being afraid to offer any resistance; and that since he had learned of the murder of Chea-po and nine others he came to the conclusion that the cowboys had committed the crime; that they, the petitioners, reported the case with all its circumstances to the authorities in Lewiston, Idaho, and a copy of which report and of the statement of the examination made of the bodies they have submitted to the consul-general for his perusal, praying that he may communicate with the local authorities on the subject, so that due justice may be obtained by having the murderers pursued, arrested, and punished.

The consul-general states that Log Cabin Bar is in the Snake River; that, after he had learned of the murder through the press dispatches, he immediately asked the Sam Yup Company to depute a Chinese interpreter, by name Lee Loi, who lived near the bar, to attend to the case, and on the 14th of July, 1887, wrote a letter to Mr. J. K. Vincent, commissioner of the county, requesting him to investigate the matter; that Mr. Vincent in his reply informed him that white men were the murderers, as some of the provision "flour" left at the bar he had traced directly to them, and that a white man had told a Chinese at his camp some very curious stories, and that some circumstances looked very suspicious. He (the consul-general) is therefore fully convinced that the murderers must be white men (Americans), and further says that the commissioner promised to write again to him if he should thereafter have secured more definite information regarding the stolen property; but several months have elapsed and he has not heard from him again, though he (the consul-general) has repeatedly written to him. He (the consul-general) has offered a reward for the apprehension of the murderers, and has ordered Chea Tsze Ke and Lee Loi to make inquiries, but they have not yet discovered the names of the murderers.

The consul-general finds that there are very few Chinese in the neighborhood of the bar, which is far from San Francisco, and that it would not be easy for the police of that place to make their investigation; and that, as the commissioner has assured him that the murderers were white men, he has sent me copies of the correspondence and all documents connected with the matter, begging me to communicate with you thereon, to the end that the local authorities may be communicated with, so that justice may be secured by having the murderers arrested and punished, and that the Chinese during their sojourn here may be protected.

As the character of this case, wherein ten lives were murdered and their bodies mutilated in a most shocking manner and thrown away, as will be seen by Commissioner Vincent's report, differs greatly from a common case of homicide, it is feared other wicked persons may, from their hatred of the Chinese, follow the examples of the murderers if they are not arrested and punished, which will affect the interest and safety of the Chinese resident there and elsewhere in the United States; I have, therefore, sent you the inclosed copies of the correspondence and documents connected in the case, hoping that you will kindly communicate with the local authorities, and urge that the murderers may be speedily apprehended and punished, to serve as a warning to others.

Accept, etc.

CHANG YEN HOON.

[Inclosure 1.]

Messrs Tsan and Bee to Mr Vincent.

CHINESE CONSULATE-GENERAL,
San Francisco, Cal., July 14, 1887.

DEAR SIR: Referring to this case of the Chinese subjects recently murdered on Snake River, this consulate is desirous of obtaining further information.

We beg therefore to ask your good offices in giving us such information as you have in regard to the outrage. If not in your province to do so, will you kindly refer this letter to any one who can enlighten us further than what we have seen in the press dispatches, which merely announced the finding of the bodies of several Chinese in the river?

We have the honor, etc.,

LIANG TING TSAN,
Consul-General.
F. A. BEE,
Consul.

[Inclosure 2.]

Mr. Vincent to Messrs. Tsan and Bee.

LEWISTON, *July* 19, 1887.

SIRS: Your communication of July 14, 1887, just received, and in answer would say that about June 14 the coroner of this county was called upon to hold an inquest upon a body up Snake River. On his return he stated that he was a Chinaman shot in the back and body, chopped in the head with an ax. Three days after news came from Perewawa, 40 miles below Lewiston, that another body had been found there, shot in the breast and head chopped. About the same time a Chinese boat, manned by ten men, came down Snake River and reported the supposed killing of a boat crew of ten, as they were all missing from their camps. Words were immediately sent below, and in a few days Lee Loi, agent of the Sam Yup Company, arrived here. Upon his arrival I had a talk with him; at his request I went with him down Snake River to Log Cabin Bar, there we found another body, shot in the back twice, head and left arm off; made inquiries about others and found one had been seen badly chopped in the head, but he was not taken from the river. We brought the body to Lewiston and buried it here.

Since that time I have been in Lee Loi's employ, have been up Snake River above where the murder was committed. Water so high impossible to find out what was done. Since have made a trip to Salmon River, from which I returned yesterday. To-day I had a little talk with a Chinaman who saw provisions on bar after men were gone.

I have been and am still in the employ of the Chinese company, ferreting out the matter. From what I have so far found things seem to show that white men were the murderers, as some of the provision "flour" I have traced directly to them. I have been following up, for six days, a white man who was at their camp and one who is the last one known to have been there. He has told some very curious stories about the matter, and some circumstances look very suspicious. But there is in that vicinity some twenty or thirty bad men and I was watched very closely for nine days. I expect to start again up Snake River on the east side and will get into their camp by some means and know what has been done with their property, if the agent here thinks best. It was the most cold-blooded, cowardly treachery I have ever heard tell of on this coast, and I am a "49er;" every one was shot, cut up, and stripped and thrown in the river. It happened about 120 miles above Lewiston, in Oregon.

The Chinese here have paid me for what I have done so far, but Government ought to take it in hand, for with actions like this none are safe. I shall continue to work for them endeavoring to trace the matter as long as they may wish me to, and if you should wish me to report what I may discover to you, or if you, as consul should wish any work done in the case, I should be very glad to do it for you.

Respectfully, yours,

J. K. VINCENT,
United States Commissioner.

[Inclosure 3.]

Judicial proceedings in reference to murder of Chinese in Idaho.

In justice court of Lewiston precinct, in and for the county of Nez Perces, Territory of Idaho. The People of the United States for Territory of Idaho, plaintiffs, vs. John Doe, Richard Doe, etc., defendants.

Lee Loi, first being duly sworn, complains and accuses Richard Doe, John Doe, and others, names unknown, of the crime of murder by feloniously, wilfully and with malice aforethought cut with an axe, shot with a gun or pistol loaded with powder and ball, which they, the said Richard Roe, John Roe, and others, names unknown, did hold in their hands, kill and murder ten Chinamen, belonging to what is known as the Sam Yup Company. Said murders having been committed on Snake River, in the State of Oregon, Wallowa County, about 120 miles from Lewiston, Nez Perce County, Idaho Territory, on or about May 25, 1887, to the best of his knowledge and belief.

All of which is contrary to the form of statutes and against the peace and dignity of the people of the United States, and he hereby prays that they, the said Doe, Roe, and others may be arrested and dealt with according to law.

Subscribed and sworn to before me this 18th day of June, 1887.

J. K. VINCENT,
Justice of Peace of Nez Perce County, I. T.

LEWISTON, *July* 8, 1887.

This is to certify to whom it may concern, that I have by instructions from Lee Loi, an agent of the Sam Yup Company, have found the following description of murdered Chinamen whose bodies have been found. One on Snake River, above Lewiston near Lime Kiln, found by Mr. Lewis, description: About 5 feet 6 inches high, 4 very large teeth, 2 above standing out, 2 below standing out and down. He had on clothes; a leather belt around his waist; shot in the back just below right shoulder blade, two cuts in back of head, one on each side, done with an ax; found about June 16.

One at Perrewawa Bar, about 40 miles below Lewiston; found about the same time. No clothes; shot in breast just below heart; head very much cut and chopped.

One on Log Cabin Bar, found June 23, on Snake River, 30 miles below Lewiston; about 5 feet 7 or 8 inches tall; had on clothes and boots; two shot wounds in small of back near backbone; head off, as though chopped; left arm off between elbow and shoulder, both arm and head in coat which was fastened to his body, held there by belt around his waist. He was lodged in large drift pile when found; some recognized him as Ah Yow.

J. K. VINCENT,
Justice of Perce County, and United States Commissioner.

WARRANT OF ARREST.

TERRITORY OF IDAHO, *County of Nez Perce:*

In the justice or the United States commissioner court of said county. The people of the United States in the Territory of Idaho to the sheriff of Nez Perce County:

A complaint upon oath having been this day laid before me by Lee Loi that the crime of murder has been committed, and accusing John Doe and Richard Doe and others thereof, you are therefore commanded forthwith to arrest the above-named John Doe and Richard Doe and others, and bring them before me forthwith at the justice court-room in said county and Territory, to be dealt with according to law, or in case of my absence or inability to act, before the nearest or most accessible magistrate in the county.

In testimony whereof I, J. K. Vincent, have hereunto set my hand and affixed the seal of said court at Lewiston, this 18th day of June, A. D. 1887.

J. K. VINCENT,
Justice of the Peace for Nez Perce County, I. T.,
and United States Commissioner.

No. 252.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, February 23, 1888.

SIR: I have received with pain your note of the 16th instant, wherein you state certain facts which have come to your knowledge, and which appear to indicate the murder of three and possibly ten Chinese subjects on the Snake River, State of Oregon, and you inform me of the unavailing steps taken by the local authorities to discover the murderers.

From the statements contained in your note and the accompanying report of the Chinese consul-general at San Francisco, with its annexed papers, I gather that in October, 1886, ten Chinamen, whose names you give (and who may be called for convenience Chea-Po's party), went up the Snake River to some point above Lewiston, Idaho Territory, in a boat loaded with provisions, for the purpose of seeking for gold; that towards the middle of June, 1887, three bodies of Chinamen, supposed to have been of the party mentioned, were found in the Snake River, with every indication of having been foully murdered; that these bodies having been found within the jurisdiction of Idaho Territory (one body having been found on Snake River, at Lime Kiln Bar, above Lewiston, one at Perrewawa Bar, about 40 miles below Lewiston, and the third at Log Cabin Bar, on Snake River, about 30 miles below Lewiston, which was recognized as that of Ah You), the authorities of Idaho held due inquest thereon; that on the verdict, showing that murder had been committed, warrants were promptly issued by the court at Lewiston for the arrest of the unknown murderers; that another Chinese exploring party visiting Log Cabin Bar in June, 1887, found three bodies of Chea-Po's party floating down the river (which bodies I infer to have been those subsequently found lower down Snake River as above described); that Chea-Po's boat was discovered stranded on some rocks in the bar and hacked with axes, and that at the spot of Chea-Po's camp bedding and provisions were discovered strewn about, some of the scattered provisions being flour said to have been traced to the former possession of white men.

No clue is furnished pointing to the murderers save the indirect statement that in April or May, 1887, "a person named Jackson told a Chinese named Hung Ah Yee that he had witnessed some cowboys, eight in number, forcibly driving Kong Shii and his party out of the bar into their boat and throwing their provisions and bedding overboard; that Kong Shii and his party fled from them, being afraid to offer any resistance, and that since he (Jackson?) had learned of the murder of Chea-Po and nine others he had come to the conclusion that the cowboys had committed the crime."

The facts which I thus endeavor to summarize connectedly are confusedly and even contradictorily presented in the inclosures accompanying your note. For instance, in the body of your note it is stated that Mr. Vincent, a commissioner of Nez Percé County, Idaho, visited the scene of the murder and there examined the three bodies, while Mr. Vincent's appended statement shows that he examined but one body, found down Snake River at Log Cabin Bar, being, as would seem, the third body found, as I have above stated. Again, the scene of the murder is not located distinctly. Your note says that Chea-Po's party went to Log Cabin Bar, and the spot is thereafter vaguely described as "the bar," and as being *up* Snake River about 120 miles *above* Lewiston;

but from Mr. Vincent's statements Log Cabin Bar, where the third body, that of Ah You (Chea You?), was found, is about 30 miles below Lewiston.

It seems evident that murder has been committed upon three Chinamen, one of whom appears to have been identified as of Chea-Po's party, and the other two are inferred to have belonged to that party. The remaining seven Chinamen of Chea-Po's party have not been traced. The motive of the murder is not shown to have been plunder, for their boat was destroyed, not stolen, and their bedding and provisions were scattered about, although it is possible that the scattered property may have been that of Kong Shii's party, which Jackson saw thrown into the water at "the bar" by cowboys a short time before. The murderers of the three discovered members of Chea-Po's party are unknown, and no satisfactory clue to their identity is furnished by your statements.

It is greatly to be regretted that the facts thus meagerly stated afford very little basis for the successful operation of the law in tracking and punishing the unknown authors of this foul crime. I am, on the facts before me, indisposed to impute neglect to the authorities of Idaho Territory, within whose jurisdiction the three bodies were found. It does not appear that the crime itself was committed within their jurisdiction; Snake River, otherwise called Shoshone River, is the boundary between Idaho Territory on the one hand and the State of Oregon and Washington Territory on the other. The bar where Chea-Po's party were camped, and where the crime is alleged to have been committed, is stated to be in Oregon, about 120 miles above Lewiston, Idaho, so that the authorities of Oregon have at least equal jurisdiction in the case, although it is not stated that any evidence has been laid before them to set in motion the machinery of justice in that State. I shall forthwith transmit copies of your note and its inclosures to the governors of the State of Oregon and of the Territory of Idaho, urgently recommending to them that every effort be made by the judicial authorities thereof to further the ends of justice by eliciting the facts of the murder and pursuing and punishing the guilty parties.

I need scarcely point out to you the advantage of furnishing the competent authorities with all attainable evidence in aid of the investigation asked for.

Accept, sir, etc.

T. F. BAYARD.

No. 253.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, February 29, 1888.

SIR: In pursuance of the promise I made you in our conference this morning, I have the honor to inclose herewith copies of the three additional articles discussed by us to the draught of convention to regulate emigration from China to the United States.

These additional articles, which are marked respectively A, B, C, might be inserted in the convention as Articles IV, V, and VI; and Article IV of the draught convention might be made Article VII.

Accept, etc.,

T. F. BAYARD.

[Inclosure.]

Draught of additional articles to the treaty concerning emigration from China to the United States.

A.

In pursuance of Article III of the emigration treaty between the United States and China signed at Peking on the 17th day of November, 1880, it is hereby understood and agreed that Chinese laborers, or Chinese of any other class, either permanently or temporarily residing in the United States, shall have for the protection of their persons and property all rights of process that are given by the laws of the United States to citizens of the most favored nation.

B.

Whereas Chinese subjects, being in remote and unsettled regions of the United States, have been the victims of injuries in their persons and property at the hands of wicked and lawless men; and whereas the Government of the United States, humanely considering the same and bearing in mind the firm and ancient friendship between the United States and China which the high contracting parties wished to cement, is desirous of alleviating the exceptional and deplorable sufferings and losses to which the aforesaid Chinese have been so subjected; therefore the United States, without reference to the question of liability therefor (which it denies), agrees to pay on or before the 1st day of March, 1889, the sum of ——— dollars to the Chinese minister at this capital, who shall accept the same, on behalf of his Government, as full indemnity for all losses and injuries sustained by Chinese subjects as aforesaid, and shall distribute the said money among the said sufferers.

C.

The Government of China hereby engage to use their best efforts with the British Government with a view to an arrangement between them to prevent the coming of Chinese laborers into the United States from Hong-Kong, by way of British Columbia.

No. 254.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, March 3, 1888. (Received March 5.)

SIR: With my note of February 19, of last year, in giving you a statement of the losses sustained by Chinese subjects during the riot at Seattle, Washington Territory, I inclosed an estimate of each one's losses. By reference to that estimate you will see that the chief sufferer was the firm of Wachong & Co., kept by Chan Yee He; the total amount of his claim was $187,814.10. An examination of the estimate will also show that I did not make a formal demand for a large part of this claim, to wit, $120,772, because I desired to avoid asking indemnity for losses not clearly sustained by international law. Consequently I only inserted then in the statement an estimate of $67,042.10 on his account. There appears now in the statement an estimate of $49,999.96, after deducting his claims based on uncollected debts amounting to $17,042.14.

Mr. Chan Yee He is a prominent and wealthy merchant. Though in the riot all his goods and houses were not robbed and burnt, yet the horrible circumstances under which this sad event took place truly claimed every sympathy, in which I have no doubt your excellency will join, and the losses to his business thus occasioned by this riot I deem it but fair to bring again to your notice with this note.

When the riot occurred the said firm owned a number of houses, rented to Chinese at the monthly rental of $379. The occupants were expelled from the Territory and the houses remained unoccupied for some time. The firm possessed a large stock of goods which they were forced by the rioters to ship away from the town, a portion being sent to Victoria, and the remainder to Portland. Owing to the character of the goods, of the value of $20,000, it was necessary to sell them at auction, and the sum realized from the sale was only $7,000.

At the time of the riot the firm was engaged in large public works under contract, having in their employ a large number of workmen. The greater portion of them being Chinese were driven away, but sixty remained and were kept by them eighty-two days unemployed owing to the stopping of the works on account of the riot, and they were compelled to pay them each $1 per day. Besides, their business depended entirely on the Chinese customers, and owing to the absence of the Chinese from the Territory for one year since their expulsion their business became very dull, and through that source they lost several tens of thousands of dollars. All the above are the basis of Wachong's claims.

During the riotous proceedings the residence of Mr. Chan Yee He was invaded by the mob and his wife was dragged down-stairs from the second story and out on the street by the hair of her head. The fright and bodily injuries received made her seriously ill, and three days afterwards she was prematurely delivered of a child. After a long sickness and intense pain for several months she finally recovered her health. The insult and ill treatment thus inflicted by the wicked people on a respectable and prominent lady in this case should be looked upon as a comparatively worse case than the outrageous case of forcibly driving the Chinese from the Territory. Mr. Chan Yee He has made no claim for this outrage, but I am sure you will agree with me that no money indemnity which might be paid could compensate for such injuries. The husband, Mr. Chan Yee He, has resided in the United States twenty-four years, and fourteen years in Seattle; he has been engaged in large business enterprises, and he pays to the United States custom-house $30,000 annually.

I have found on careful inquiry that the statement of his claims is true, he being a respectable merchant of high standing, and not on the same footing as common traders. I have, therefore, recited all the detailed circumstances of his case in this note which I did not mention in my note first presenting the claims, and I think they will commend themselves to your favorable consideration, so that his claims for indemnity may be granted him in full.

With sentiments of the highest regard, I remain, etc.,

CHANG YEN HOON.

No. 255.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,

Washington, D. C., March 3, 1888. (Received March 5.)

SIR: In the interview which I had the honor to hold with you on the 29th ultimo, in response to your polite note of the 24th ultimo, you requested that I should send you a copy of the statement of claims, which I left with you during the interview, with a list of those which were based upon losses of uncollected debts.

In compliance with your request I have great pleasure in transmitting the accompanying statement, which I hope may be found to meet your desires.

It will be noted that the statement includes a claim on account of the twenty-eight lives lost at the Rock Springs riot in 1885. When the estimate for property losses was sent to you with the note of my predecessor of November 30, 1885, it was hoped that due punishment would be inflicted upon the wicked men who so cruelly murdered the Chinese subjects in that horrible affair, and thus their relatives would have the satisfaction of knowing that some atonement had been made, and for which punishment I have in my notes made repeated requests. But since not a single one of the murderers has been punished, it seems highly just that some compensation should be made to the families of the unfortunate men, and I know so well your high sense of justice and kindness of heart that I am satisfied you will recognize this claim as well founded.

With this new opportunity, I repeat, etc.,

CHANG YEN HOON.

[Inclosure 1.]

STATEMENT OF CLAIMS.

I.—*Property losses.*

In note of April 5, 1886:		
Squak Valley, Washington Territory		$535.65
Coal Creek Mine, Washington Territory		4,054.88
Almy, Wyoming Territory		6,064.70
In note of August 11, 1886:		
Anaconda, Montana Territory		3,000.00
In note of February 19, 1887:		
Tacoma, Washington Territory—		
Losses in the town		106,919.60
Losses in the vicinity		7,530.65
In note of February 19, 1887:		
Seattle, Washington Territory—		
Losses as stated in inclosure accompanying note	$143,851.87	
Deducting claims based upon uncollected debts, as per statement attached hereto	35,337.60	
There remains in the Seattle claim		108,514.27
In note of February 25, 1887:		
Juneau, Alaska Territory. No detailed estimate of losses yet filed. About 100 Chinese were expelled. Estimating $100 each for property losses and expenses of journey to San Francisco and elsewhere would amount to		10,000.00
In note of February 15, 1886:		
A statement of riots at Bloomfield, Redding, Boulder Creek, Eureka, and other towns in California, involving murder, arson, robbery, and expulsion, but no estimates. Also a statement that near 100,000 Chinese had been driven from their homes.		
Total of property losses, as estimated		246,619.75

II.—*Loss of lives.*

In note of November 30, 1885:	
Rock Springs, Wyoming Territory. Number of lives lost in riot, besides 16 wounded	28
In note of April 5, 1886:	
Squak Valley, Washington Territory. Number of lives lost (and 4 wounded)	3
Orofino, Idaho Territory. Number of lives lost	5
In note of August 11, 1886:	
Anaconda, Montana Territory. Number of lives lost	4
In note of February 16, 1888:	
Snake River, Oregon. Number of lives reported lost	10

If the Snake River murders are omitted, of which no accurate information is yet received, there remain 40 lives of Chinese by riots and violence for which no compensation has yet been made. If the indemnity paid by Spain to the United States in the *Virginius* case is accepted, $2,500 as the lowest sum, there would result a claim for $100,000. Add as above, property losses, $246,619.75; grand total, $346,619.75.

[Inclosure 2.]

STATEMENT AS TO CLAIMS FOR UNCOLLECTED DEBTS.

These only appear in the Seattle claims (see note February 19, 1887).

The first on the list is the claim of Wa Chong & Co. for $67,042.10. In examining the detailed items on file in the Chinese legation there appears of this sum for uncollected debts..... $17,042.14

The others in the list as follows:

Tong yu Chong	8,477.95
Kwong Chong	2,568.91
On Tai	2,797.25
Hong Fong Low	1,489.70
Yeong Kee	333.10
Kow Kee	428.55
Sory Woh (total of this claim is $5,321.35. Deduct losses in goods, $3.121.35)	2,200.00
Total for uncollected debts	35,337.60

No. 256.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, March 7, 1888.

SIR: I had the honor to receive, on the 5th instant, your note of the 3d instant, accompanied by a full statement of the pecuniary estimate of all the losses in property and injuries to person suffered by Chinese subjects throughout the United States in remote and unsettled localities at the hands of lawless and cruel men.

I have carefully considered the amended draughts of the proposed articles of the treaty and shall accept the modifications as they appear in the manuscript sent by you, asking, however, that a reasonable limitation upon the period of their voluntary absence from the United States shall be fixed within which Chinese subjects must avail themselves of the right to return to the United States.

The tragedy at Rock Springs in 1885 should, however, be considered as having been deliberately closed as between the two Governments, and I am not wholly without hope that the hand of justice may yet reach the perpetrators of those crimes, none of whom, however, were citizens of the United States.

You will comprehend the obvious expediency of concluding the proposed convention at the earliest possible day, and I will therefore invite you to call at this Department on Thursday, the 8th instant, at 2 o'clock p. m., at which time I believe the terms of the treaty can be definitely agreed upon between us and the instrument be prepared for our signatures on Saturday next.

Accept, etc.,

T. F. BAYARD.

No. 257.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, March 9, 1888.

SIR: I have now the honor to transmit the draught of the treaty to restrict immigration as amended and agreed to in our late personal conferences on the subject.

For your clear understanding I have caused to be surrounded by lines in red and numbered the amendments agreed to at our conference on yesterday. Whenever you shall have prepared the text of the treaty in the Chinese language I shall be prepared to sign the treaty and will ask you to send me a translated copy of the power received by you from your Government on its behalf to execute the treaty.

Accept, etc.,

T. F. BAYARD.

[Inclosure.]

Draught of Chinese treaty.

Whereas, on the 17th day of November, A. D. 1880, a Treaty was concluded between the United States and China for the purpose of regulating, limiting, or suspending the coming of Chinese laborers to, and their residence in, the United States;

And whereas the Government of China, in view of the antagonisms and much deprecated and serious disorders to which the presence of Chinese laborers has given rise in certain parts of the United States, desires to prohibit the emigration of such laborers from China to the United States;

And whereas the Government of the United States and the Government of China desires to co-operate in prohibiting such emigration, and to strengthen in other ways the bonds of friendship between the two countries;

Now, therefore, the President of the United States has appointed Thomas F. Bayard, Secretary of State of the United States, as his Plenipotentiary; and His Imperial Majesty, the Emperor of China, has appointed Chang Yen Hoon, Minister of the Third Rank of the Imperial Court, Civil President of the Board of Imperial Cavalry, and Envoy Extraordinary and Minister Plenipotentiary, as his Plenipotentiary; and the said Plenipotentiaries, having exhibited their respective Full Powers found to be in due and good form, have agreed upon the following articles:

ARTICLE I.

The High Contracting parties agree that for a period of twenty years, beginning with the date of the exchange of the ratification of this Convention, the coming, except under the conditions hereinafter specified, of Chinese laborers to the United States, shall be absolutely prohibited.

ARTICLE II.

The preceding article shall not apply to the return to the United States of any Chinese *laborer** [subject] who has a lawful wife, child, or parent in the United States, or property therein of the value of one thousand dollars, or debts of like amount due him and pending settlement. Nevertheless, every such Chinese laborer shall, before leaving the United States, deposit, as a condition of his return, with the collector of customs of the district from which he departs, a full description in writing of his family, or property, or debts, as aforesaid, 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 now or hereafter prescribe and not inconsistent with the provisions of this Treaty; and should the written description aforesaid be proved to be false, the right of return thereunder, or of continued residence after return, shall in each case be forfeited. And such right of return to the United States shall be exercised within one year from the date of leaving the United States; but such right of return to the United States may be extended for an additional period, not to exceed one year, in

* Words in italics added; in brackets, stricken out.

cases where by reason of sickness or other cause of disability beyond his control, such Chinese *laborer** [subject] shall be rendered unable sooner to return--which facts shall be fully reported to the Chinese consul at the port of departure, and by him certified, to the satisfaction of the collector of the port at which such Chinese subject shall land in the United States.

ARTICLE III.

The provisions of this Convention shall not affect the right at present enjoyed of Chinese subjects, being officials, teachers, students, merchants, or travelers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein. To entitle such Chinese subjects as are above described, to admission into the United States, they *may** [shall, in accordance with section 6 of the law of July 5, 1884, of the Congress of the United States] produce a certificate [as required in said section*] from their Government or the Government where they last resided, viséd by the diplomatic or consular representative of the United States in the country or port whence they depart.

It is also agreed that Chinese laborers shall continue to enjoy the privilege of transit across the territory of the United States in the course of their journey to or from other countries, subject to such regulation by the Government of the United States as may be necessary to prevent said privilege of transit from being abused.

ARTICLE IV.

In pursuance of Article III of the Immigration Treaty between the United States and China, signed at Peking on the 17th day of November, 1860, it is hereby understood and agreed that Chinese laborers, or Chinese of any other class, either permanently or temporarily residing in the United States, shall have for the protection of their persons and property all rights that are given by the laws of the United States to citizens of the most favored nation, excepting the right to become naturalized citizens. And the Government of the United States reaffirms its obligation, as stated in said Article III, to exert all its power to secure protection to the persons and property of all Chinese subjects in the United States.

ARTICLE V.

Whereas Chinese subjects, being in remote and unsettled regions of the United States, have been the victims of injuries in their persons and property at the hands of wicked and lawless men, which unexpected events the Chinese Government regrets, and for which it has claimed an indemnity the legal obligation of which the Government of the United States denies; and, whereas, the Government of the United States, humanely considering these injuries and bearing in mind the firm and ancient friendship between the United States and China, which the High Contracting parties wish to cement, is desirous of alleviating the exceptional and deplorable sufferings and losses to which the aforesaid Chinese have been subjected; therefore, the United States, without reference to the question of liability therefor (which as a legal obligation it denies), agrees to pay on or before the 1st day of March, 1889, the sum of $276,619.75, *two hundred and seventy-six thousand six hundred and nineteen dollars and seventy-five cents,** to the Chinese Minister at this capital, who shall accept the same, on behalf of his Government, as full indemnity for all losses and injuries sustained by Chinese subjects as aforesaid, and shall distribute the said money among the said sufferers and their relatives.

ARTICLE VI.

This Convention shall remain in force for a period of twenty years, beginning with the date of the exchange of ratifications; and if, six months before the expiration of the said period of twenty years, neither Government shall formally have given notice of its termination to the other, it shall remain in full force for another like period of twenty years.

No. 258.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,

Washington, D. C., March 12, 1888. (Received March 12.)

SIR: I have the honor to inform you that in my memorial to the Throne, dated the tenth day of the third month in the thirteenth year

* Words in italics added; in brackets, stricken out.

of Kwong Sü (3d April, 1887), relative to the payment of the indemnity paid by your Government in the Rock Springs case, for which I obtained an imperial edict commanding me to receive the same, I clearly stated that I was then negotiating with your excellency a convention for the protection of the Chinese subjects residing in the United States and also the restriction of their immigration thereinto.

On the twentieth day of the intercalary fourth month, in the thirteenth year of Kwong Sü (11th June, 1887), I had the honor to be apprised of a rescript in vermilion from my august sovereign on the subject delivered to the foreign office to the effect, "let the foreign office take note of the same," which is the customary imperial method of conferring powers in such cases.

I therefore take pleasure in communicating to you the above, hoping that you will take cognizance of the same.

Accept, etc.,

CHANG YEN HOON.

No. 259.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, April 11, 1888.

SIR: I have the honor to transmit herewith for your information in connection with my note to you of February 23, 1888, relative to the murder of certain Chinese subjects on Snake River, Oregon, a copy of a letter from the governor of the Territory of Idaho, dated the 3d instant, upon the subject. It will be observed that, despite the excellent disposition of Governor Stevenson, the very limited knowledge of the facts so far as disclosed makes investigation difficult, if indeed it does not tend to defeat the ends of justice.

Accept, etc.,

T. F. BAYARD.

[Inclosure.]

Governor Stevenson to Mr. Bayard.

BOISÉ CITY, IDAHO, *April* 3, 1888.

SIR: In reply to your letter of February 24, inclosing correspondence from the minister of China relating to the murder of ten Chinamen on Snake River.

I have deferred answering, hoping that I might be able to give some information as to who were the parties that committed this terrible and brutal murder, but up to this date have been unable to obtain any important facts. I have referred the matter to the officers of the law and will see that every effort shall be made to find out the guilty parties and bring them to punishment.

The place where the Chinamen were working was about 120 miles above Lewiston, in the State of Oregon. Only one body was found in Idaho and he had floated down the river and lodged on the Idaho side of Snake River, at Lime Kiln. The body found at Penewana bar, 40 miles below Lewiston, and the one at Log Cabin Bar, 30 miles below Lewiston, were both in Washington Territory.

Any information I shall be able to obtain will be forwarded to you at once.

I have, etc.,

E. A. STEVENSON.

No. 260.

Mr. Bayard to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, May 8, 1888.

SIR: It gives me pleasure to inform you that the treaty signed and concluded by us as the plenipotentiaries of our respective countries on the 12th of March last has been approved by the United States Senate, with two amendments.

I inclose a copy of the treaty with the two amendments written in red ink and numbered in the margin.

On examination of these amendments I do not discover that the original provisions of the treaty are in any degree altered thereby, but that they only repeat what the treaty itself was intended to express.

In view of the expediency of finally concluding this agreement between our two countries, I invite you to join with me in accepting these amendments, for which end the powers already vested in you are sufficient, and for which I shall receive due authority from the President.

Ratifications being thus secured can at once be exchanged, and proclamation made by the President, which will put the treaty in force without further delay.

Accept, etc.,

T. F. BAYARD.

[Inclosure.—Confidential Executive O. Fiftieth Congress, first session.]

Message from the President of the United States, transmitting a convention between the United States and China for the exclusion hereafter of Chinese laborers from coming to the United States, signed and concluded at Washington March 12, 1888.

TO THE SENATE:

I have the honor to transmit herewith, and recommend for your constitutional approval, a convention, signed and concluded in this city on the 12th instant, under my direction, between the United States and China for the exclusion hereafter of Chinese laborers from coming into this country.

This treaty is accompanied by a letter from the Secretary of State in recital of its provisions and explanatory of the reasons for its negotiation, and with it are transmitted sundry documents giving the history of events connected with the presence and treatment of Chinese subjects in the United States.

In view of the public interest which has for a long time been manifested in relation to the question of Chinese immigration, it would seem advisable that the full text of this treaty should be made public, and I respectfully recommend that an order to that effect be made by your honorable body.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, March 16, 1888.

Report of the Secretary of State to the President.

TO THE PRESIDENT:

I have now the honor to transmit herewith, with a view of its being communicated to the Senate for its advice and consent, a convention providing for the absolute prohibition of the coming of Chinese laborers into the United States, which was concluded in this city on the 12th instant by me under your instructions and authority and by the Chinese ministe at this capital under the imperial authority of China.

Shortly after the advent of your administration it was considered advisable, in view of the manifest popular discontent in the States bordering upon the Pacific, growing out of the presence there of Chinese laborers and their obvious lack of assimilation with the sympathies, habits, and interests of our own citizens, and the demon.

strated inefficiency of the statutes intended to restrict their coming among us, that an effort should be made to procure the desired relief by obtaining the consent and co-operative action of China by means of an amended treaty, and thus avoid the necessity of a resort to separate legislation, which, without the co-operative assistance of the Chinese Government, would be less effectual, and might also be open to exception as being in conflict with or in derogation of the stipulations of existing conventions, and possibly as impairing our good understanding with a friendly power.

The temporary absence from the United States in 1885, and the subsequent illness of the then Chinese minister, unavoidably delayed negotiations, but upon the arrival of his successor, the present minister, Chang Yen Hoon, propositions were speedily submitted to him for a convention absolutely prohibiting the immigration of Chinese laborers, and after some further delay, arising from a visit made by him to Europe last summer, the treaty herewith transmitted has been concluded.

By this arrangement we have secured the co-operation of China in the main purpose and object of the treaty, which is plainly stated in the first article of the convention to be the absolute prohibition of Chinese laborers from coming into the United States for twenty years, and its renewal thereafter for a similar period, unless notice shall have been given as provided in Article VI.

This precludes the return of any Chinese laborers who are not now in this country, and forbids the coming into the United States of Chinese laborers from any quarter whatsoever.

From this inhibition are excepted any Chinese laborer who has a lawful wife, child, or parent in the United States, or property therein of the value of one thousand dollars ($1,000), or debts of like amount due him and pending settlement.

Considerations of humanity and justice require these exceptions to be made, for no law should overlook the ties of family, and the wages of labor are entitled to just protection.

Judging also by the statistics of the class in question and from general experience, such excepted cases will be practically few in number, infrequent, and easily capable of such regulations as will prevent abuse.

The regulation and control of the issue of such certificates of return will be wholly in the hands of United States officials, and power to prescribe other laws at discretion may be exercised by the United States.

Such right to return is for a limited period, and the certificates are invalidated by the perpetration of fraud in connection with their procurement or use, and the United States are free to adopt such measures as may become advisable to check or punish any abuse.

In the course of late litigation in the United States courts in California, arising out of the contested claims of certain Chinese laborers to return to the United States under the certificates now provided by law, it has been pertinently suggested by the learned judges before whom the cases were tried that the detailed information contained in the certificates themselves, as now issued to the Chinese, furnishes the means of fraudulent entry of Chinese laborers, to whom such certificates have been fraudulently transferred and who are not entitled to come to the United States. And it has been pointed out that if all the facts requisite for complete identification of the departing Chinaman were retained in the United States official custody, and a paper containing only a simple number, and properly marked, signed and countersigned by the officers, were furnished, the means of detecting and preventing fraud in the transfer of the certificate would be given, and the present abuses made almost impossible of recurrence.

Existing treaty privileges of travel and sojourn in the United States to Chinese officials, teachers, students, merchants, and travelers for curiosity and pleasure remain undisturbed, as well as the transit right of laborers strictly to be exercised under United States regulations.

The stipulations of the third article of the treaty of 1880 provided for the extension of the full protection to the person and property of Chinese subjects of all classes that is given by laws of the United States to the most favored nation, and by the terms of that article the United States also agreed "to exert all its power to secure such protection" to the persons and property of Chinese subjects in the United States.

It can not justly be alleged that any discrimination has been made against the Chinese by the laws of the United States, nor that they have been denied or obstructed in their access to the avenues of public remedial justice, which are open to all persons alike without distinction of race or nationality. But the fact remains that, for reasons heretofore stated in the message of the President to Congress in relation to the Rock Springs indemnity, there has been a failure of justice in the repression and punishment of crime and lawless violence of which Chinese were the victims, owing to the mingled causes of race prejudice, labor rivalries, their peculiar habits, and segregation from other nationalities.

The ill treatment to which Chinese laborers have been subjected by lawless and cruel men in certain scantily-settled and remote regions of our jurisdiction, where they are practically beyond the reach of the protecting arm of the law, has been a

subject of just complaint by their Government, as well as mortification and sorrow to our own, and Congress heretofore in the case of the Rock Springs massacre in Wyoming Territory, in view of all the circumstances, has made voluntary appropriations for the relief of the sufferers and their families.

The distribution of governmental powers under our system forbids the assumption of local police control by the Federal authority, except in the cases provided for by the Constitution wherein State and local governments make application to the Executive for the assistance of the military arm of the Government.

The stipulations of our treaty with China does not demand the enactment or enforcement of laws discriminating in favor of the Chinese subjects in the United States, nor does it entitle them to greater or other protection than is accorded to citizens of the most favored nations.

Tried by this test the Chinese in all cases of injuries to their persons or property are equal before the laws of this country to the citizens of any other "most favored" nation and certainly to our own citizens.

But the fact remains that they have suffered grievously in person and property, and whilst the liability of the United States is wholly inadmissible, as is recited in Article V of the treaty now submitted, yet it is competent for this Government, in humane consideration of those occurrences, so discreditable to the community in which they have taken place, and outside of the punitive powers of the National Government, to make voluntary and generous provisions for those who have been made the innocent victims of lawless violence within our borders, and to that end, following the dictates of humanity, and, it may be added, the example of the Chinese Government in sundry cases where American citizens who were the subjects of mob violence in China have been indemnified by that Government, the present treaty provides for the payment of a sum of money to be received as full indemnity for all such losses and injuries sustained by Chinese subjects in the United States, to be received and distributed by the Chinese minister at this capital.

This payment will, in a measure, remove the reproach to our civilization caused by the crimes referred to, as well as redress the grievance so seriously complained of by the Chinese representative, and unquestionably will also reflect most beneficially upon the welfare of American residents in China.

I submit herewith a list of the claims from time to time presented to this Department through the Chinese minister, in which the names of the claimants, the amount of the losses, and estimation and details of the injuries inflicted are set forth.

Respectfully submitted.

T. F. BAYARD.

DEPARTMENT OF STATE,
Washington, March 16, 1888.

Chinese emigration treaty as amended by the Senate.

Whereas, on the 17th day of November, A. D. 1880, a Treaty was concluded between the United States and China for the purpose of regulating, limiting, or suspending the coming of Chinese laborers to, and their residence in, the United States;

And whereas the Government of China, in view of the antagonism and much deprecated and serious disorders to which the presence of Chinese laborers has given rise in certain parts of the United States, desires to prohibit the emigration of such laborers from China to the United States.

And whereas the Government of the United States and the Government of China desire to coöperate in prohibiting such emigration, and to strengthen in other ways the bonds of friendship between the two countries;

Now, therefore, the President of the United States has appointed Thomas F. Bayard Secretary of State of the United States as his Plenipotentiary; and His Imperial Majesty the Emperor of China has appointed Chang Yen Hoon Minister of the Third Rank of the Imperial Court, Civil President of the Board of Imperial Cavalry and Envoy Extraordinary and Minister Plenipotentiary as his Plenipotentiary; and the said Plenipotentiaries, having exhibited their respective Full Powers found to be in due and good form, have agreed upon the following articles:

ARTICLE I.

The High Contracting parties agree that for a period of twenty years, beginning with the date of the exchange of the ratifications of this Convention, the coming, except under the conditions hereinafter specified, of Chinese laborers to the United States shall be absolutely prohibited; *and this prohibition shall extend to the return of Chinese laborers who are not now in the United States, whether holding return certificates under existing laws or not.**

* The amendments of the Senate to the Treaty as originally signed are printed in italics.

ARTICLE II.

The preceding article shall not apply to the return to the United States of any Chinese laborer who has a lawful wife, child, or parent in the United States, or property therein of the value of one thousand dollars, or debts of like amount due him and pending settlement. Nevertheless, every such Chinese laborer shall, before leaving the United States, deposit, as a condition of his return, with the collector of customs of the district from which he departs, a full description in writing of his family, or property, or debts, as aforesaid, 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 now or hereafter prescribe and not inconsistent with the provisions of this Treaty; and should the written description aforesaid be proved to be false, the right of return thereunder, or of continued residence after return, shall in each case be forfeited. And such right of return to the United States shall be exercised within one year from the date of leaving the United States; but such right of return to the United States may be extended for an additional period, not to exceed one year, in cases where by reason of sickness or other cause of disability beyond his control, such Chinese laborer shall be rendered unable sooner to return—which facts shall be fully reported to the Chinese consul at the port of departure, and by him certified, to the satisfaction of the collector of the port at which such Chinese subject shall land in the United States. *And no such Chinese laborer shall be permitted to enter the United States by land or sea without producing to the proper officer of the customs the return certificate herein required.**

ARTICLE III.

The provisions of this Convention shall not affect the right at present enjoyed of Chinese subjects, being officials, teachers, students, merchants, or travelers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein. To entitle such Chinese subjects as are above described to admission into the United States they may produce a certificate from their Government or the Government where they last resided, visèd by the diplomatic or consular representative of the United States in the country or port whence they depart.

It is also agreed that Chinese laborers shall continue to enjoy the privilege of transit across the territory of the United States in the course of their journey to or from other countries, subject to such regulations by the Government of the United States as may be necessary to prevent said privilege of transit from being abused.

ARTICLE IV.

In pursuance of Article III of the Immigration Treaty between the United States and China, signed at Peking on the 17th day of November, 1880, it is hereby understood and agreed that Chinese laborers, or Chinese of any other class, either permanently or temporarily residing in the United States, shall have for the protection of their persons and property all rights that are given by the laws of the United States to citizens of the most favored nation, excepting the right to become naturalized citizens. And the Government of the United States reaffirms its obligation, as stated in said Article III, to exert all its power to secure protection to the persons and property of all Chinese subjects in the United States.

ARTICLE V.

Whereas Chinese subjects, being in remote and and unsettled regions of the United States, have been the victims of injuries in their persons and property at the hands of wicked and lawless men, which unexpected events the Chinese Government regrets, and for which it has claimed an indemnity, the legal obligation of which the Government of the United States denies; and whereas the Government of the United States, humanely considering these injuries and bearing in mind the firm and ancient friendship between the United States and China, which the high contracting parties wish to cement, is desirous of alleviating the exceptional and deplorable sufferings and losses to which the aforesaid Chinese have been subjected; therefore, the United States, without reference to the question of liability therefor (which as a legal obligation it denies), agrees to pay on or before the first day of March, 1889, the sum of two hundred and seventy-six thousand six hundred and nineteen dollars and seventy-five cents ($276,619.75) to the Chinese minister at this capital, who shall accept the same, on behalf of his Government, as full indemnity for all losses and injuries sustained by Chinese subjects as aforesaid, and shall distribute the said money among the said sufferers and their relatives.

*The amendments of the Senate to the Treaty as originally signed are printed in italics.

ARTICLE VI.

This convention shall remain in force for a period of twenty years, beginning with the date of the exchange of ratifications; and if, six months before the expiration of the said period of twenty years, neither Government shall formally have given notice of its termination to the other, it shall remain in full force for another like period of twenty years.

In faith whereof we, the respective plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done, in duplicate, at Washington, the 12th day of March, A. D., 1888.

[L. S.] T. F. BAYARD,
[L. S.] CHANG YEN HOON.

No. 261.

Mr. Bayard to Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, May 11, 1888.

DEAR MR. MINISTER: Complying with your verbal request made in an interview to-day, I have now the pleasure to hand you a full copy of the treaty in which the two amendments added by the Senate are contained, and noted upon the margin.*

I agree with you that these two amendments do not change or add to the force and effect of the original text of the treaty as signed by us, but it will be necessary to have them formally accepted on behalf of your Government and noted in our certificate of exchange of ratification.

The delay thus caused by the Senate amendments is to be regretted, but the action of that body is independent and co-ordinate and must be so accepted.

I inclose the printed copy of the treaty, with the amendments noted in red ink, and I am,

Very truly, yours,

T. F. BAYARD.

No. 262.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, May 12, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 8th instant, in which you inform me that the United States Senate has approved the treaty which we signed on the 12th (13th) of March last, with two amendments, which you inclose.

I have carefully examined these amendments, and as they do not alter the terms of the original treaty, it will give me pleasure to accept them in due form.

By international practice a treaty requires the ratification of the sovereign for whom the treaty is concluded, and I, on the 15th of March last, sent the signed treaty to the foreign office for its examination, and I have just telegraphed to the same office the amendments in question. As soon as I shall be notified by my Government of the ratification, by

* For text of treaty, as amended, see Document No. 260, *ante*, page 396.

my august sovereign, of the treaty, I shall, in exchanging ratifications, have the amendments written in a protocol to be appended to the treaty.

I improve the occasion to assure you, Mr. Secretary, of my most distinguished consideration.

CHANG YEN HOON.

No. 263.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, May 14, 1888. (Received May 14.)

DEAR MR. SECRETARY: I had the honor to receive your note of the 8th instant, informing me of the approval of the treaty by the United States Senate, with two amendments, which you inclosed, written in red ink on its margin, and to which I have already replied.

I have the honor now to acknowledge the receipt of your note of the 11th instant, inclosing a full copy of the treaty and the two amendments, and also the printed copy of the treaty, with the amendments noted in red ink.

I will, without delay, send them to the foreign office, which will present them, with the original signed treaty, to the Throne for its decree. I will communicate with you as soon as I am notified of the decree. The amendments will be, in due form, noted in the certificate of exchange of ratification.

I am, very truly, yours,

CHANG YEN HOON.

No. 264.

Mr. Rives to Mr. Chang Yen Hoon.

DEPARTMENT OF STATE,
Washington, May 15, 1888.

SIR: Referring to previous correspondence exchanged by the Department with you in relation to the reported murder, in May, 1887, of a party of Chinamen engaged in mining on Snake River, in Oregon, I have the honor to communicate to you for your information copy of a letter in relation to the occurrence, written by the honorable James H. Slater, of Joseph, Oregon, formerly a Senator of the United States, to Mr. L. L. McArthur, United States attorney for the district of Oregon, which letter has been sent to this Department for such use as may be proper.

You will observe that Mr. Slater makes important statements touching the necessity of securing evidence against the six men who have been indicted recently for the killing and robbery of the Chinamen in question. It seems probable that much aid in the indicated direction might be rendered to the authorities of the State of Oregon having jurisdiction in the premises by the Chinese consul at San Francisco, who has heretofore interested himself in tracing out the authors of this grievous crime and endeavoring to procure their trial and conviction.

The crime having been committed against the laws and peace of Ore-

gon, and the indictment against certain of the alleged murderers having been found by the criminal courts of that State, there is no present occasion for Federal jurisdiction in the premises, or for interference to procure testimony on the part of the judicial officers of the United States. The Chinese consul at San Francisco and his agents, with the witnesses to the facts mentioned in your previous note, will, I am sure, be afforded every courtesy and facility by the authorities of the State of Oregon, of whose energetic disposition to take advantage of every opportunity to further the ends of justice Senator Slater's letter affords gratifying proof.

Accept, etc.,

G. L. RIVES,
Acting Secretary.

[Inclosure.]

Mr. Slater to Mr. McAuthur.

JOSEPH, OREGON, *April* 25, 1888.

DEAR SIR: There is a matter in this county which in my judgment ought to be looked into by the United States district court, if it has jurisdiction. The facts are about as follows: About last May a party of white men, about six or seven men, committed a most daring outrage on a camp of unoffending Chinamen who were mining on Snake River. They went in broad day-light, attacked them, and there is direct proof of the killing of two and indirect proof of the killing of many more. Their camp was robbed, and it is believed that the white men got some $5,000 or $10,000 in gold dust. An indictment was found in the circuit court in March last against six, Ben Evans, J. B. Canfield, Omer Le Rue, Robert McMillin, Carl Hughes, and Hiram Mayward. The three latter are in jail; the other three, who are regarded as the ringleaders, are at large and are out of the State and their exact whereabouts not definitely known, but it is believed that with proper effort they can be secured.

Frank Vaughn testified before the grand jury and gave the whole matter away. The feeling here is quite intense against the accused and a general desire is expressed that all the parties should be brought to punishment, but the county is not in a condition to push the prosecution. Detectives will have to be employed to hunt down the three out of the State. I believe there is no power vested in the court or county to employ detectives or agents for the purpose named. The Governor can issue proper papers and bring back the accused when found and arrested, but has no power I think to do more. I have not examined the Federal statutes, but surely think that such offenses are surely cognizable in the Federal courts, but if they are not I feel sure that in such a case the Department of Justice can find some way to aid in the hunting down of these men. It seems to me that in such a case the Federal Government must have the power to vindicate a friendly foreigner within its borders under treaty stipulation. McMillin and Vaughn claim to have been eye-witnesses to the whole affair, and Mayward and Hughes claimed to have remained at the cabin of the white men during the affair and have been restrained from saying anything about it by reason of threats. Vaughn turned state's evidence and is under bonds.

I write to you because you are the United States attorney for Oregon and directly in communication with the Department, and also because I regard the matter in a most serious light and feel sure that if the matter be laid before the proper authority the whole power of the Government will be brought to bear to bring the guilty to justice. Every aid will be given by the officers of this county and by the people here. I am, of course, not advised as to what the powers of Judge Deady's court may be, never having examined into it. But if jurisdiction attaches I trust immediate steps will be taken to insure a speedy conviction, and if there is a doubt about the matter, I suggest that the whole matter be at once laid before the Attorney-General. You are at liberty to make such use of this letter as you may think best. If further information be desired D. B. Reavis, county clerk, and Peter O. Sullivan, county judge, will be glad to furnish the same.

I must ask you to excuse the bad appearance of this letter as I have written in great haste, and without time to put it in better shape.

Respectfully, yours,

JAMES H. SLATER.

No. 265.

Mr. Chang Yen Hoon to Mr. Bayard.

CHINESE LEGATION,
Washington, D. C., May 20, 1888. (Received May 21.)

SIR: I have great pleasure in acknowledging the receipt of the note of Acting Secretary Rives of the 15th instant, relating to the murder of Chinese subjects on Snake River, Oregon, which has heretofore been the subject of our correspondence.

I desire to express my hearty thanks for the information contained in said note and its inclosure, and to say that I shall send a copy of the same without delay to the consul-general at San Francisco, and direct him to take such action in the matter as is within his power to aid the local authorities in discovering and bringing to punishment the wicked men who perpetrated the murder. I repeat to you with this new opportunity the assurance of my highest consideration and esteem.

CHANG YEN HOON.

No. 266.

Mr. Shu Cheon Pon to Mr. Bayard.

CHINESE LEGATION,
Washington, September 25, 1888. (Received September 25.)

SIR: I have the honor to inform you that I am in receipt of a cablegram from Lima from the minister of China, Chang Yen Hoon, to the effect that there are three points in the pending treaty which the Chinese Government regards it is necessary to reconsider with your Government, and which the minister instructs me to bring to your notice without delay.

First. Though the two Governments seem to agree on the general purpose of the treaty, it causes dissatisfaction to the Chinese people. It would seem well, therefore, to take into consideration the question of some reduction of the period of suspension of the coming of the laborers into the United States.

Second. Article 2 of the treaty, generally speaking, is satisfactory, but it would be necessary to permit every Chinese laborer who had returned to China from the United States before the signing of this new treaty, and who has property in the United States, to report the fact to the Chinese consul so that he may be enabled to return to the United States under a certificate granted him.

Third. There ought to be a provision for the return of Chinese laborers who have property in the United States of the value of less than $1,000.

The Chinese minister sails from Callao on the 26th instant, and will be back in Washington in twenty-two or twenty-three days. As the relations between your excellency and the Chinese minister in the transaction of official business has always been cordial and harmonious I hope that some satisfactory conclusion will be reached after his return.

Accept, sir., etc.,

SHU CHEON PON.

No. 267.

Mr. Bayard to Mr. Shu Cheon Pon.

DEPARTMENT OF STATE,
Washington, September 26, 1888.

SIR: I beg leave to acknowledge your note, dated yesterday, in which you inform me that although the treaty signed and concluded at this capital on the 12th of March last, between the United States and China, seems to meet the views of your Government as to its general purpose, yet it causes dissatisfaction to the Chinese people, and that there are three certain points in the treaty which the Chinese Government regards it necessary should be reconsidered and which by the instruction of your minister you set forth in your note and bring to my notice.

I am much pleased to learn by your note that the minister expected to sail from Peru to-day for this country, and that we may expect his return to this capital in the course of three weeks. His presence here will be assuredly welcomed, and I trust that he will renew the duties of his high office in good health, and continue in those relations to this Department which have always been so cordial and harmonious.

Accept, sir, etc.,

T. F. BAYARD.

COLOMBIA.

No. 268.

Mr. Bayard to Mr. Maury.

[Extract.]

No. 12.] DEPARTMENT OF STATE,
Washington, February 25, 1887.

SIR: The French Canal Company avows its control of the land line of telegraph operated in connection with the Panama Railroad Company, and asserts its determination to retain the monopoly alleged to have been derived from the railway concession. The railroad company gives notice, for its part, that "theirs is *a private wire*, and they pass messages between Panama and Colon *by courtesy*."

The mere fact that the international communications of two continents, over an intricate net-work of cables, is dependent for an important connecting link upon the "courtesy" of a corporation and the use of a line of wire alleged to be "private," and constructed as an accessory to a railway, is a matter of concern to the governments which are constrained to use such limited and unstable means of official intercommunication.

The guaranties of the treaty of 1846 are necessarily general and somewhat vague, especially as to matters not distinctly foreseen when it was framed. It may not be practicable or even expedient to seek to define its provisions, for the progress of invention and development of material forces would soon demand a re-adjustment of its terms. But it is very evident, without resorting to elaborate argument, that if telegraphic facilities are among the means of interoceanic communication covered by the treaty, they must be open and public and their free and neutral use fully secured. The announcement that the railroad and canal companies' telegraph line from Colon to Panama is a *private* wire, and that the use of it by the Governments of the United States and Colombia and by the commercial public is permissive only, is, if true, abundant demonstration that no trans-isthmian telegraphic communication now exists such as was contemplated and falls under the necessary guaranties of the treaty of 1846. That instrument guaranties to us "equal, tranquil, and constant use" of whatever means of transit are provided for "correspondence," and the telegraph is assuredly the most important and useful of all such means.

I am, etc.,

T. F. BAYARD.

No. 269.

Mr. Bayard to Mr. Maury.

[Extract.]

No. 44.] DEPARTMENT OF STATE,
Washington, November 14, 1887.

SIR: Referring to the views of the Department, as expressed in its instruction No. 12, of the 25th February last, touching the considerations which should operate to prevent the dependence of this and other governments upon the mere courtesy of a private telegraph company on the isthmus for the transmission of messages, I inclose* a copy of a further complaint against the Panama Railroad Company for its refusal to receive messages for transmission across the isthmus.

I am, etc.,

T. F. BAYARD.

No. 270.

Mr. Maury to Mr. Bayard.

[Extract.]

No. 67.] LEGATION OF THE UNITED STATES,
Bogotá, December 19, 1887. (Received January 30, 1888.)

SIR: I have the honor to acknowledge the receipt of your No. 44, of November 14th last.

I now have the honor to transmit herewith a communication I have this day addressed to Mr. Carlos Holguin, minister of foreign affairs, and will in due time communicate to you his reply, and what other steps I may find it necessary to take in bringing this subject to a satisfactory settlement.

I shall deliver this communication to the minister in person, and urge prompt action in the matter.

I am, sir, etc.,

DABNEY H. MAURY.

[Inclosure in No. 67.]

Mr. Maury to Mr. Holguin.

LEGATION OF THE UNITED STATES,
Bogotá, December 19, 1887.

SIR: With reference to my notes† of the 14th and 28th April and May 12 last, I have the honor to inclose a further communication * * * on the subject of my notes, which I beg your excellency will be good enough to return me when convenient.

I am again instructed to bring this highly-important matter to the earnest consideration of your excellency's Government, not doubting that on reconsideration you will see the necessity of preventing any private company from asserting a monopoly over the telegraph across the isthmus.

If such a course were allowed, it will be a source of great trouble to all nations in the near future, and a resolution declaring that Colombia will permit no monopoly of telegraphs or other means of correspondence across the isthmus will greatly gratify the Government of the United States, which looks with much disfavor upon the monopoly now exercised by the telegraph company owning the lines across the Isthmus of Panama, and can not permit its continued exercise.

I take this opportunity to renew, etc.,

DABNEY H. MAURY.

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* Inclosure not printed herewith. † Not printed.

No. 271.

Mr. Maury to Mr. Bayard.

[Extract.]

No. 70.] LEGATION OF THE UNITED STATES,
Bogotá, December 25, 1887. (Received January 30, 1888).

SIR: In reference to the subject of my letter to you, No. 67, December 19th, instant, I have the honor to inform you that I laid the matter before the minister of foreign affairs in a written communication of the points I raised against the claim of the Panama Railway Company to exclusive telegraphic rights on the Isthmus. He listened to us attentively, and replied that as the subject was new to him it would take a few days to familiarize himself with it, after which he would lay it before President Payan, and would let me know as soon as possible what action the Government would take in regard to it.

Last evening Señor Holguin, the minister of foreign affairs, kindly called at my residence and informed me that his Government had decided that the railway company held no exclusive telegraphic rights across the Isthmus, and further, that to avoid any possible conflict of private interests it had decided to construct and own the line, and that General Posada, governor of Panama, had been ordered to proceed at once with the work. This communication was verbal only, but as soon as I receive it in writing I shall forward you a copy.

I am, sir, etc.,

DABNEY H. MAURY.

No. 272.

Mr. Maury to Mr. Bayard.

No. 73.] LEGATION OF THE UNITED STATES,
Bogotá, December 29, 1887. (Received January 30, 1888.)

SIR: I have the honor to transmit herewith a communication, received yesterday, from Señor Carlos Holguin, minister of foreign affairs, relating to the claim of the Panama Railway Company to exclusive telegraphic rights across the Isthmus, with a translation of the same.

I have, etc.,

DABNEY H. MAURY.

[Inclosure in No. 73.—Translation.]

Mr. Holguin to Mr. Maury.

REPUBLIC OF COLOMBIA,
MINISTRY OF FOREIGN AFFAIRS,
Bogotá, December 28, 1887.

Mr. MINISTER: I have the honor to acknowledge the receipt of your courteous note of the 19th instant, and of the 14th and 28th of April, and of the 12th of May last, all relating to the same subject, namely, the monopoly which is said to be claimed by the Panama Railway Company over the telegraphic line across the Isthmus.

The Government, availing itself of the right which it possesses, of constructing that class of public works within its own territory, has resolved to establish in (the department of) Panama a telegraph of a national character, of which your Govern-

ment can have the use, with the utmost assurance that its communications will meet with no obstructions.

I believe, Mr. Minister, that this measure of the Government fully meets the wishes expressed in your note to which I have the honor to refer, and I suppose it is thus made clear to you that the Government does not recognize the monopoly referred to.

I repeat, etc.,

CARLOS HOLGUIN.

No. 273.

Mr. Bayard to Mr. Maury.

No. 54.] DEPARTMENT OF STATE,
Washington, January 11, 1888.

SIR: I transmit for your information a copy* of a dispatch from our minister in Chili relative to the re-appearance of the cholera at Santiago, and intimating that the quarantine measures at Panama are too rigid.

Special instructions are withheld for the present, but you will take such opportunities as in your judgment seem to be proper to deprecate any greater restriction of transit facilities than are demanded by sanitary considerations.

I am, etc.,

T. F. BAYARD.

No. 274.

Mr. Bayard to Mr. Maury.

No. 56.] DEPARTMENT OF STATE,
Washington, February 2, 1888.

SIR: Your dispatches Nos. 67, 70, 72, and 73, dated respectively the 19th, 25th, 26th, and 29th of December last, have been received. They relate to your execution of my instruction numbered 44, of November 14, 1887, touching open telegraphic communication across the Isthmus of Panama, which had theretofore been the subject of correspondence, and you therein report the decision of the Colombian Government that the telegraph wire belonging to the Panama Railroad Company is a private wire, and not an exclusive monopoly of telegraphic transmission across the territory of the Isthmus. I observe also the announced purpose of the Colombian Government to construct and operate as a public work within the federal district of Panama a line of national telegraph of which the unobstructed use is tendered to the Government of the United States.

This decision and announcement are received with satisfaction. The Government of the United States appreciates the action of the Colombian Government in placing at its disposal a means of untrammelled and secure telegraphic communication over so important a thoroughfare as the Isthmus, and sees therein a renewed indication of the spirit which animates the Government of Colombia in facilitating the observance of the important and intimate obligations which exist between it and the United States in respect of the Isthmian transit.

I am, etc.,

T. F. BAYARD.

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* For inclosure, Mr. Roberts to Mr. Bayard, November 11, 1887, No. 166, see Document No. 131, *ante*, p. 178.

No. 275.

Mr. Walker to Mr. Bayard.

[Extract.]

No. 88.] LEGATION OF THE UNITED STATES,
Bogotá, February 13, 1888. (Received March 16.)

SIR: I have the honor to inform you that President Nuñez, who temporarily relinquished executive functions about two months ago, returned to the capital yesterday and resumed control of the Government.

It is not thought that there will be any disturbance of public order, all parties being, seemingly, willing to await the result of the elections for members of Congress, which take place in April, to be followed by its assembling in July.

The financial condition of the country, in the mean time, is deplorable, and constantly growing worse. The income from custom-house duties and from internal taxation being barely sufficient to meet the current expenses of the Government, all payments on account of the large indebtedness arising out of the attempted revolution of two years ago, are being met by issues of what are called *rales*, that is, by orders on the treasury payable at the rate of 6 per cent. annually, out of the proceeds of the custom-house receipts for that year. When these receipts are insufficient to meet outstanding *vales*, holders, in excess of the 6 per cent. of that year, are paid out of the next year's revenue in the same proportion.

As these *vales* can not be used in ordinary commercial transactions, holders are forced to sell them to the "Banco Nacional," a Government institution. It is now paying 55 per cent. of their face value in its own notes. So that the small percentage of the unfunded national debt now being settled, when reduced to American currency amounts to about 30 per cent. only of its recognized value.

Of the foreign bonded debt since 1880 not a cent has been paid. It is said that a committee of the English bond holders will shortly arrive here, with authority to make some arrangement with the Government, but the treasury of the country is bankrupt and its future resources so discounted that it is difficult to see how any arrangement which would be satisfactory to the holders of bonds is possible.

I have, etc.,

JOHN G. WALKER.

No. 276.

Mr. Walker to Mr. Bayard.

No. 89.] LEGATION OF THE UNITED STATES,
Bogotá, February 20, 1888. (Received March 23.)

SIR: I have the honor to acknowledge the receipt of your No. 54, of January 11 last, inclosing a copy of a dispatch to you from Minister Roberts, in regard to the existence of cholera in Chilian ports and the quarantine regulations at Panama.

There being no information at this legation as to the nature of these regulations, I to-day addressed a note on the subject to the minister of

foreign affairs, a copy of which I inclose herewith. As soon as an answer is received I shall transmit you a copy of it, and inform you what other steps I may find it expedient to take in the matter.

I have, etc.,

JOHN G. WALKER,

[Inclosure in No. 89.]

Mr. Walker to Mr. Restrepo.

LEGATION OF THE UNITED STATES,
Bogotá, February 20, 1888.

John G. Walker, chargé d'affaires of the United States, presents his compliments to His Excellency Vicente Restrepo, minister of foreign affairs, and respectfully requests to be informed what quarantine regulations have been established at Panama as to vessels coming from Chilian ports where it is thought cholera prevails. While the United States Government would in no wise object to such precautions as may be necessary to prevent the introduction of cholera into Colombian ports, it deprecates any unnecessary restrictions upon commerce and the free passage across the Isthmus of Panama.

No. 277.

Mr. Walker to Mr. Bayard.

No. 90.] LEGATION OF THE UNITED STATES,
Bogotá, February 25, 1888. (Received March 23.)

SIR: Francis W. Putnam, born in the United States, of American parents, and a resident of Colombia, on the 20th of December, 1884, obtained a passport from Minister Scruggs, as an American citizen. A short time subsequently he was convicted in a Colombian court of a felony, and was sentenced to a term of imprisonment, which he served out, and was discharged without a pardon. He now applies to this legation for a renewal of his passport, and I have deferred acting on his request until I am instructed from your Department.

The point about which I am in doubt is, whether or not this conviction in a court of a foreign country deprives the person of the right to demand a passport as an American citizen. I am of the opinion that legally it does not, but respectfully request to be instructed on this point. And also whether or not the diplomatic officers of the Government have the right to deny passports to persons of notoriously bad character, although their American citizenship be undoubted.

I am, etc.,

JOHN G. WALKER.

No. 278.

Mr. Walker to Mr. Bayard.

No. 92.] LEGATION OF THE UNITED STATES,
Bogotá, March 1, 1888. (Received April 6, 1888.)

SIR: On the 20th ultimo I addressed a note to the Colombian minister of foreign affairs on the subject of quarantine regulations at Panama, and on the 25th ultimo I received from him a reply, a copy of which, with a translation, I have the honor to inclose herewith.

I am, etc.,

JOHN G. WALKER.

[Inclosure in No. 92.—Translation.]

Mr. Restrepo to Mr. Walker.

REPUBLIC OF COLOMBIA,
MINISTRY OF FOREIGN AFFAIRS,
Bogotá, February 23, 1888.

The undersigned, minister of foreign affairs, courteously salutes the honorable John G. Walker, chargé d'affaires of the United States, and referring to his verbal note of the 20th instant, has the honor to explain the circumstances connected with the closure of Colombian ports against vessels coming from Chili.

The Government of Panama, upon the first announcement of the scourge, directed the absolute closure of the ports of the isthmus against vessels coming from suspected ports.

In view of the magnitude of the danger, and in the absence of means to guard against the contagion, such as quarantines and systems of disinfection, the Government of the Republic confirmed the measures adopted by that of Panama. Thus it was that notwithstanding applications of the Government of Chili, that of Colombia has maintained the absolute closure, in accordance with the advice of sundry sanitary councils and authorities of reputation who were consulted on the subject.

Later information made it appear that the cholera had ceased, but when the Government was about to modify its existing decrees, in a sense unfavorable to closure, the Colombian chargé d'affaires at Santiago advised that with a change of season the epidemic had reappeared in various provinces of Chili. In view of this intelligence the Government did not hesitate in its determination to maintain absolute closure.

This action on the part of the Colombian Government has been in accord with other Governments on the Pacific coast, which have likewise closed their ports against vessels coming from infected ports, as this ministry is informed periodically by its agents in Lima and Guayaquil.

This Government does not conceal the fact that the danger of the epidemic spreading from Chili to Colombia has not presented a like degree of probability at all times, and that consequently the preventive measures should be in proportion as the danger is more or less imminent. But in the absence of such sanitary systems as exist in other countries, it has been quite impossible to establish gradations of which I speak, or to diminish the precautions taken, until the absolute disappearance of the danger of infection.

For this reason, although we have had in view the various systems of disinfection and quarantine of France, for example, and the measures advocated by sanitary conferences and congresses, the Government has found itself obliged, in presence of the danger, and in absence of the necessary means of prevention, to resort to absolute closure to protect the country from this fearful scourge.

For the rest, the undersigned is persuaded that the Government of the United States should recognize that as there are no existing means on the Pacific side of Colombia for disinfecting objects brought in vessels from Chili in transit across the isthmus to the United States, there will always be a danger which can not be eliminated as long as cholera exists in Chili.

In spite of the considerations which the undersigned has just laid before the chargé d'affaires of the United States, this Government to-day telegraphed its agent at Santiago, requesting information in regard to the present sanitary condition of Chili, and the probability of the reappearance of cholera in case it has lately disappeared.

The undersigned reiterates, etc.,

VICENTE RESTREPO.

No. 279.

Mr. Bayard to Mr. Walker.

No. 63.] DEPARTMENT OF STATE,
Washington, March 6, 1888.

SIR: I have to call your attention to the following facts, in respect of which your prompt action is desirable.

The Boston Ice Company, a partnership composed exclusively of citizens of the United States, has been for more than twenty-three years engaged in the business of shipping ice, lumber, and general merchan-

dise to the cities of Aspinwall and Panama, in the Republic of Colombia, for sale by the agents or representatives of the company, and is now engaged in such business. It appears from papers laid before the Department that the shipping of ice to the cities of Aspinwall and Panama and the selling of such ice therein constitutes the principal part of the business of this ice company, in which part of its business it has a large amount of capital invested and many agents and officers employed. Indeed, the Boston Ice Company appears to be the only importer and dealer in ice in the two important cities named.

It appears that on November 21, 1887, President Nuñez promulgated a decree, countersigned by Mr. Restrepo, minister of the treasury, for establishing a monopoly of the importation and sale of natural ice in the department. This decree you will find published in the Diario Oficial of November 24, 1887. It provides that the Government of Colombia reserves to itself the monopoly of the importation and sale of natural ice in the department of Panama; that the Government may grant said monopoly or privilege to an individual or to a company either by private contract or at public auction; that the grantee of such privilege may transfer it to another individual or company with the previous assent of the Government, and that from the day whereon the grantee of said privilege enters into the enjoyment thereof no individual or company shall import ice into said department of Panama without the consent of said grantee.

On January 21, 1888, Mr. Restrepo, minister of the treasury, issued a printed invitation for proposals or bids for the concession suggested by the above decree, with a form of the contract which would be required, a translation of which is herewith inclosed. You will probably have no difficulty in procuring a printed copy of this invitation in Spanish on making request in the proper quarter.

You will then ascertain and report whether, under the laws and usages of Colombia to which the native citizens of that Republic are subject, a monopoly in any article of trade or commerce is allowable, and whether the contract of concession suggested by Mr. Restrepo, minister of the treasury, is in conflict with the laws and usages of the United States of Colombia.

If you should discover that the granting of such a monopoly as is proposed in this concession is not warranted by the laws of Colombia, you will report the same to this Department and await further instructions.

If you should, on the other hand, discover that such a monopoly is not inconsistent with the usages and laws of that country, you will then make known unofficially to the minister of foreign affairs the ruinous result upon the business of the Boston Ice Company of enforcing such a decree on the conditions outlined in the proposed concession, and of the utter discouragement to the investment hereafter of any American capital, or the promotion of any American enterprise, if such a fate should await other American citizens who, like the company in question, have for more than twenty years lent the aid of their capital and business energies in faithful subordination to the laws of Colombia in the development of the convenience, comfort, and health of the people of that country.

The spirit of the treaty of 1846 is one of closest amity between the two countries, and under the terms of this treaty, especially under article 35, the active good offices of the United States have been exerted with the highest benefit to the Republic of Colombia.

It would be well for you to impress the minister with the fact that the

severance of interests between the inhabitants of the two countries must necessarily be followed by a diminution of personal good feeling; and it would be deeply regrettable if a check should now be given to the immigration of American citizens of reputation and wealth into Colombia, where their presence has been heretofore only productive of great good to that country and also to themselves.

As following these views, it would be well for you in a friendly manner to see whether a modification of the terms contained in the seventh article of this concession could not be obtained.

It is not the disposition of this Government to interfere in any way with the administration of the laws of another and a friendly power, but where the interests of American citizens have been sought to be secured by treaty and are unexpectedly exposed to invasion and injury it is part of the duty of one friendly government to point out to another the injurious results that must necessarily follow.

It is the wish of this Government that the overflow of numbers, capital, and energy from the United States into the Republic of Colombia, should continue to benefit both countries, and that they shall understand that it is the part of friendship to point out all circumstances that may tend to jeopardize the good feeling that should be encouraged to exist between the citizens of the two countries. Monopolies are held in the United States to be obnoxious and to be violative of sound public policy, as being in restraint of trade and destructive of that equality which should exist before the law, and be followed by a government with the citizens under its control.

No condition could be held valid which deprived a citizen of the right to appeal to the protecting power of his own Government, for that is secured to him by the eternal principles of justice as reflected in well-known international law.

The United States have no reason to believe that any discrimination against its citizens is intended by the Government of Colombia, and therefore, in presenting this subject to the foreign office, you will do so personally and not officially, frankly stating the friendly object with which the present dispatch to you is penned; that is, to prevent injuries to important interests of citizens of the United States lawfully engaged in business in Colombia, following the laws of that country, and giving it the benefit of their capital and enterprise.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 63.—Translation from the Diario Oficial, published at Bogotá, Thursday, November 24, 1887, of decree number 719 of 1887.]

TREASURY DEPARTMENT.

Decree number 719 of 1887 (21st of November) for the monopolizing of the importation and sale of natural ice in the department of Panama.

The President of the Republic considering that, by the decree number 858, of December 12, 1885, which is to-day the law of the Republic, agreeably to transitory article L of the Constitution, the National Government reserved to itself the administration of the department of Panama in all its branches;

That, by article third of said decree, there were delegated to the governor of that department the necessary powers to reorganize in all its branches the public administration of the said department, which implies that the Government had reserved them to itself;

That the delegation of powers to a Government official does not imply any surrender of the right to exercise the same by said Government, decrees:

ART. 1. The Government reserves to itself, as a financial measure for the Depart-

ment of Panama, the monopoly of the importation and sale of natural ice in the said department.

ART. 2. The privilege which, by the preceding article, the Government reserves to itself, may be granted to an individual or to a company, either by a private contract or at public auction, and in accordance with the tenders of bids, which the Treasury Department will publish at appropriate intervals.

ART. 3. The grantee may transfer such privilege to another individual or company with the previous consent of the Government.

ART. 4. From the day whereon the grantee enters into the enjoyment of the privilege of which this decree treats, no individual or company shall import ice into the department of Panama without the consent of said grantee.

ART. 5. In case the Government does not grant this privilege, which by the present decree it reserves to itself, it will avail itself of the same when it may be deemed expedient, for which purpose the appropriate announcement shall be issued with due notice.

Given at Anapoima, November 21, 1887.

RAFAEL NUÑEZ.

VICENTE RESTREPO,
Minister of the Treasury.

[Inclosure 2 in No. 63.—Translation.]

Official notice of the Government of Panama inviting proposals for the importation and manufacture of ice in that Department.

IMPORTANT.—OFFICIAL NOTICE.—ICE.

Until the 18th proximo, this Government, duly authorized, will receive proposals for the importation and manufacture of ice in the department, which will be transmitted to Bogota by cable.

Conditions for the proposals.

(1) The contract or concession will be for twenty years.
(2) The payment of the tax to be established will be made annually in advance at the general office of the department treasury, in silver coin 0.835 fine.
(3) The buildings, machinery, ice-houses, etc., in good condition, will become the property of the Government, without pay, at the termination of the concession.
(4) Security satisfactory to the Government will be given.
(5) It will be a strict condition to renounce diplomatic remedies for whatever dispute may arise, obeying unconditionally the national laws.
(6) The maximum price of ice of every kind shall not exceed 10 centavos per kilogram at retail.

By superior orders.

FRANCISCO DE FABREGA, Jr.,
General Secretary.

PANAMA, *January* 14, 1888.

[Inclosure 3 in No. 63.—Translation.]

Proposals invited for a contract of concession for the manufacture, importation, and sale of ice in the department of Panama.

DEPARTMENT OF TREASURY,
Bogotá, January 21, 1888.

Inasmuch as the contract of concession for the manufacture and sale of ice in the department of Panama, made at public auction to Mr. Christian A. Maal, has not been approved by his excellency the President of the Republic, and in consideration of act No. 42, of 1883, passed by the legislative assembly of the extinct State of Panama, and of executive decree No. 719, of the 21st of November last, published respectively in Nos. 7140 and 7240 of the Diario Oficial, all persons, citizens of this nation, or foreign citizens who may desire to obtain the concession for the manufacture, importation, and sale of ice in the aforesaid department are invited to send their proposals to this ministry on or before February 29 next, at 2 p. m.

The proposals referred to will be subject to the following conditions:

RIGHTS OF THE CONTRACTOR HOLDING THE CONCESSION.

I. The Government concedes to N. N. the exclusive right to manufacture, import, and sell ice in the department of Panama for the term of —— (which will not exceed twenty years).

II. From the time when N. N. enters upon the enjoyment of the concession granted to him, which will take place —— (number of months) after the grant of the concession, no person or company will be allowed to manufacture, import, or sell ice in the department of Panama without the consent of the contractor.

III. N. N. shall have the right to demand the expropriation of land which he may require for buildings, aqueducts, and warehouses needed for the manufacture, importation, or sale of ice. The seizure, to take effect under existing laws on the subject, provides indemnity which the contractor must pay.

IV. The Government declares that the manufacture, importation, and sale of ice in the department of Panama is a work of public utility (empresa de utilitad publica), and that, for such reason, it shall be exempt from all kinds of imposts, taxes, and duties, whether they be national, territorial, or municipal.

V. It also declares that the agents, employés, and servants of this work shall be exempt from all public service.

OBLIGATIONS OF THE CONTRACTOR HOLDING THE CONCESSION.

I. N. N. shall pay into the treasury of the department of Panama in silver coin ($\frac{835}{1000}$ fine) the sum of —— for each year during the continuance of the concession, and make such payments annually in advance.

II. N. N. shall bind himself to furnish, free of cost, to the charitable and military hospitals now established, or which may be established in the cities of Panama and Colon, and on the line of the railroad and the canal, all the ice which, in the judgment of the physician or superintendent of each establishment, they may need.

III. N. N. shall pay, for the benefit of public instruction, a fine of $25 for each day that he fails to supply said hospitals with the ice they may require, except in case of accidents.

IV. N. N. shall keep on hand the amount of ice required for consumption, and the places for its sale shall be open to the public from 7 a. m. to 5 p. m.

V. N. N. shall bind himself to sell ice at not over 10 centavos per kilogram.

VI. At the expiration of the concession, N. N. shall cede to the department of Panama, without right to any indemnity whatever, the buildings, machinery, apparatus, and store-houses set up on the isthmus for the manufacture and sale of ice.

VII. N. N. shall bind himself (if a foreigner) not to resort in any event to diplomatic reclamations in controversies which may arise in regard to the interpretation and execution of this contract.

VIII. N. N. shall, in like manner, be bound to submit himself to the respective judges and courts of the Republic for the settlement of said controversies.

IX. N. N. shall guaranty the fulfillment of this contract by mortgage security, or bonds satisfactory to the department of treasury, to the amount of two of the annual payments due the department of Panama under Section I of these obligations.

GENERAL CONDITIONS.

I. The present contract shall become void, without further notice, if, within —— (such a time) from the granting the concession, the manufacture, importation, and distribution of ice, in quantities sufficient for the consumption, should not have been commenced.

II. In like manner it shall become void in case of more than six months' delay of any annual payment, or if the supply and sale of ice is suspended for more than one month, except in case of accidents. Such annulment of contract being proclaimed, the amount pledged to secure the fulfillment of the contract, under section 9 of the obligations of the contractor, shall belong to the Government.

III. The contractor shall not assign this concession to any other person or company without the previous consent of the Government, and in no event to a foreign government.

IV. The contract, made by virtue of this public bidding, shall be subject to the approval of the executive branch of this Government, without which it will not be binding.

The proposals shall be presented folded, closed, and sealed, and on the envelope shall be written the contents and name of the bidder; and they must be accompanied

by a bond, drawn up on stamped paper of the first class, and signed in the presence of witnesses.

At 12 o'clock noon, on the 1st day of March, the papers will be opened, the bonds offered will be examined, and bids and counter-bids will be listened to, in which no person shall take part except those who have made written proposals and whose bondsmen have been adjudged to be satisfactory. In these bids and counter-bids (*pujas i repujas*) the largest payment offered to the department and the shortest time for which the concession is desired will be considered as the best bid.

VICENTE RESTREPO,
Minister.

A true copy.
Attest:
[SEAL.]

ADOLFO ALEMAN,
Oficial Mayor.

No. 280.

Mr. Walker to Mr. Bayard.

No. 95.] LEGATION OF THE UNITED STATES,
Bogotá, March 7, 1888. (Received April 6.)

SIR: As a subject which may be of interest to the State Department and important to some of our citizens coming to this country to reside, I have the honor to inclose herewith a copy in Spanish of the "Concordat" recently celebrated between the Holy See of Rome and the Colombian Government, with a careful translation. In making this translation I regretted that I did not have access to the original Latin text in which it was drawn up and signed, but had to content myself with the Spanish translation, which in some of the articles is vague and ambiguous. The first clause of the seventeenth article is so much so that in my translation I was forced to be paraphrastic rather than literal.

As a part of the same subject I herewith transmit a copy with translation of law 30, passed by the legislative council on the 25th of February last, which virtually annuls all civil marriages celebrated at any time in the past, unless the ceremony was also performed canonically. The annulment of the marriage, however, does not illegitimatize the children of such marriage.

I am, sir, etc.,

JNO. G. WALKER.

[Inclosure 1 in No. 95.—Translation.]

CONCORDAT ENTERED INTO BETWEEN POPE LEO XIII AND THE REPUBLIC OF COLOMBIA.

[Concluded December 31, 1887. Ratified by the legislative council of Colombia February 24, 1888.[

In the name of the most holy and indivisible Trinity, the supreme pontiff, Leo XIII, and the most excellent Rafael Nuñez, President of the Republic of Colombia, by their respective representatives, to wit, on the part of his holiness, the most eminent Monsignore Mariana Rampolla del Tindaro, cardinal presbyter of the most holy church of St. Cecelia and papal secretary of state; and on the part of the Republic, his excellency Joaquin Vélez, envoy extraordinary and minister plenipotentiary near the Holy See, who, after a mutual exchange of credentials, have concluded the following convention:

ART. 1. The Catholic, Roman, Apostolic is the religion of Colombia, the public authorities of which shall recognize it as an essential element of social order, and they

bind themselves to protect it in all its rights and privileges, and to cause it and its ministers to be respected.

ART. 2. The Catholic Church shall be free and independent of the civil authority, and shall freely exercise all its spiritual authority and jurisdiction, conforming in its administrative government solely to its own laws.

ART. 3. Canonical legislation shall be free of the civil, and shall form no part of the latter, but will be respected by the latter.

ART. 4. The church, represented by its hierarchical authorities, is recognized by the state as a true and legitimate entity, with capacity to exercise and enjoy all rights pertaining to such.

ART. 5. The church has the right of acquiring, possessing, and administering real and personal property, in accordance to general laws, and its lands and establishments shall be no less inviolable than those of the citizens of the Republic.

ART. 6. Ecclesiastical property may be taxed in the same manner and to the same extent as the property of private individuals, except edifices for public worship, theological seminaries, and the residences of the clergy, which are exempt from all taxation, occupation, or appropriation to other uses.

ART. 7. The secular and regular clergy shall not be required to perform public duties incompatible with their ministry and profession, and at all times shall be exempt from military service.

ART. 8. The Government shall enact such laws as will protect the sacerdotal dignity whenever, for any cause, a minister of the church may figure in criminal trials.

ART. 9. Diocesan bishops and parish priests may claim from the faithful the emoluments and ecclesiastical fees canonically and equitably established, either by the immemorial custom of the diocese or by the rules of religious services; and in order that such acts and obligations may produce civil effects, and that the temporal authority may lend its support, the bishops shall proceed in accord with the Government.

ART. 10. Competent ecclesiastical authority has the right in Colombia to establish religious orders of both sexes, to be governed by suitable constitutions. But in order to secure the enjoyment of the rights of a lawful corporation and the protection of the laws, they must present to the civil authorities the canonical authorization issued by their ecclesiastical superior.

ART. 11. The Holy See will lend its support and co-operation to the Government for the establishment in Colombia of religious institutions, giving preference to those for charitable purposes, for missions, for the education of youth, and for general education, and to other works of public utility and beneficence.

ART. 12. Public education and instruction in universities, colleges, schools, and in other centers of instruction shall be organized and directed in conformity with the dogmas and moral teachings of the Catholic Church.

ART. 13. Consequently, in such centers of instruction the respective diocesan bishops, either by themselves or by special delegation, shall exercise the right, in whatever concerns religion and morals, to inspect and revise the text-books in use in the same.

The archbishop of Bogotá shall prescribe the text-books relating to religion and morals to be used in the universities; and to insure uniformity of teaching on those subjects, said prelate, in connection with other bishops, shall choose the text-books for the other schools of official instruction.

The Government shall see that no lectures are delivered on literary, scientific, or general subjects in any branch of learning that inculcate ideas contrary to Catholic dogmas or calculated to lessen the respect due to the church.

ART. 14. If, in spite of the orders and precautions of the Government, the moral and religious teaching (in universities, colleges, etc.) shall not conform to Catholic doctrines, the respective diocesans may withdraw from the offending professors and masters the privilege of teaching in such branches.

ART. 15. The Holy See has the right to fill vacancies in the archbishoprics and bishoprics, but the holy father, as an evidence of special deference and to the end of preserving perfect harmony between the church and the state, agrees that in filling such vacancies the previous consent of the President shall be obtained. To that end, when such vacancies occur, the President may recommend directly to the Holy See such ecclesiastics, as in his judgment unite in themselves the gifts and qualifications necessary for the episcopal dignity; and the Holy See, on its part, before making the appointment, shall always communicate the names of the candidates for promotion in order to ascertain whether or not the President considers the candidates civilly or politically disqualified for such positions. Vacancies in the bishoprics to be filled as soon as possible, and in no case to remain unfilled for more than six months.

ART. 16. The Holy See may erect new dioceses, or change the limits of those existing whenever it is thought opportune and useful for the better care of souls, previously consulting the Government and admitting such suggestions as may be reasonable and just.

ART. 17. All persons professing the Catholic religion, desirous of contracting marriage, should have the ceremony performed according to the rites of the church.

The civil effects of marriage, in respect to the persons and property of the contracting parties and their descendants, can only be secured when the marriage is performed in accordance with the prescriptions of the Council of Trent. This celebration shall be witnessed by the functionary who may be designated by law for the sole purpose of verifying the entry of the marriage in the civil registry. But in cases of marriage *in articulo mortis*, when this formality might be difficult of observance, it may be dispensed with, and other proof substituted.

It being the business of the contracting parties to secure the intervention of the civil functionary for the registry, the duty of the clergyman is limited to an admonition as to the requirements of the civil law.

ART. 18. In order to give marriages celebrated at whatever period, according to the prescriptions of the Council of Trent, civil effect, suppletory evidence of ecclesiastical origin will be given preference.

ART. 19. Matrimonial causes affecting the married relation, cohabitation, and the validity of espousals pertain exclusively to the ecclesiastical authority, the civil consequences of marriage to the temporal.

ART. 20. The armies of the Republic shall enjoy the indulgences known as *castrenses*, to be regulated by the holy father in a separate act.

ART. 21. Following the divine offices there shall be offered up in all the churches of the Republic the following prayers: *Domine salvam fac Rempublicam; Domine salvum fac Præsidem ejus et supremas ejus auctoritates.*

ART. 22. The government of the Republic recognizes in perpetuity as a consolidated debt the value of the redeemed annuities (censos) now in the treasury, and of the estates belonging to the church fraternities, charitable foundations, chapels, establishments for instruction and benevolence erected by the church, which at any time may have been inscribed in the public debt of the nation. This recognized debt is to bear interest without diminution at the annual rate of 4½ per centum payable every six months.

ART. 23. The income arising from sequestrated benefices and tithings pertaining to charitable institutions, chapels, monasteries, and other separate foundations is recognized and shall be paid to those who have the right to receive them, or to their legal representatives. This payment shall be made without diminution as is provided for in the last preceding article, to commence with year 1888. In case any such bodies have become extinct, the amounts due them by a previous arrangement with the Government shall be applied to pious and charitable objects without in any case contravening the intention of the founders.

ART 24. In view of the present condition of the national treasury of Colombia and the benefit derived by the church from the observance of this convention, the Holy See makes the following relinquishments:

(*a*) The value of the principal of the sequestered property belonging to the aforesaid extinct convents and religious bodies of both sexes, not included in the foregoing articles, and which has not in any manner been recognized. (*b*) Whatever is due to such extinct organizations for rents or interest already accrued, or in whatever manner resulting, from said sequestration previous to the 31st of December, 1887.

ART. 25. In consideration of the foregoing favor the Government of Colombia agrees to secure, in perpetuity, an annual net sum, hereby fixed at one hundred thousand Colombian dollars, to be increased when the said treasury is in a better condition, said payments to be applied to the uses of the dioceses, chapters, seminaries, missions, and such other civilizing works of the church, and in such manner as may be agreed upon between the high contracting parties.

ART. 26. The surviving members of the extinct religious communities shall continue in the enjoyment, for their maintenance and other necessities, of such revenues as may have belonged to them by virtue of previous laws and decrees.

ART. 27. In like manner shall be paid the rents and incomes set aside by anterior laws and decrees for the support of public worship in churches, chapels, and other religious places not included in article 22. If concerning this point there should be doubt or difficulty, the Government shall communicate with the competent ecclesiastical authorities, to the end that a good understanding may be arrived at.

ART. 28. The Government shall return to religious bodies such of their sequestrated property as has no distinct destination; but if the owner does not come forward, or if he fills no ecclesiastical office, it may be sold and the proceeds applied to pious and benevolent objects, according to the most pressing needs of each diocese, the proceeding in such cases to be in accord with the ecclesiastical authorities.

ART. 29. The Holy See, in order to secure public tranquillity, declares, for its part, that persons who purchased ecclesiastical property during the past changes in Colombia, or who have redeemed annuities (censos) in the national treasury, according to the provisions of the civil law at the time in force, shall not be disturbed in any manner by the ecclesiastical authorities, a favor extended not only to those who per-

formed the acts, but to those who, in the exercise of whatsoever functions, may have taken part in the same, in such manner that the first purchasers, as well as their legal successors and those who have redeemed annuities (censos), shall enjoy in peace and security said property, its products and emoluments, stipulating, however, that the Republic shall not in future repeat similar acts of seizure.

ART. 30. The Government of the Republic shall arrange with the respective diocesan bishops all that relates to cemeteries, reconciling the exigencies of their civil and sanitary character with the veneration due the sacredness of such places and with ecclesiastical prescriptions. In case of misunderstandings on such subjects, they will be arranged between the Holy See and the Government.

ART. 31. Agreements between the Holy See and the Government of Colombia for fostering Catholic missions among barbarous tribes shall not require the after approval of Congress.

ART. 32. The present convention repeals and renders null and void all laws, orders, and decrees, in whatsoever mode or period they were promulgated, in such parts as may contradict or are inconsistent with this convention, which shall remain the permanent law of the State.

ART. 33. The ratification of this convention shall take place within six months from the date of its signature, or sooner, if possible.

In faith whereof the said plenipotentiaries sign and seal this convention.

Done at Rome the 31st day of December, 1887.

M. CARDINAL RAMPOLLA.
JOAQUIN F. VÉLEZ.

NATIONAL LEGISLATIVE COUNCIL,
Bogotá, February 24, 1888.

Considering (1) that in the celebration of the foregoing convention the Government has acted within the powers conferred upon it by article 56 of the fundamental law of the Republic.

(2) That by this agreement, which satisfactorily and consistently settles all pending questions between the church and the State in conformity with the new national régime, and at the same time responds to imperious necessity and public well-being, which demanded the definition of the mutual relations between the civil and the ecclesiastical powers; and

(3) That its stipulations conform strictly to the provisions of articles 38, 41, 47, 53, 54, and 55 of the constitution.

It is decreed—

ART. I. That the foregoing convention is hereby approved and incorporated in the present law.

ART. II. The amount to be paid out of the treasury of the Republic to fulfill its obligations thereby created is hereby appropriated, and will be included in the budget of the present fiscal period.

Given at Bogotá this 24th day of February, 1888.

CARLOS CALDERON. R.,
President.
JOSÉ MARIA RUBIO. F.,
Vice-President.

ROBERTO DE NARVAEZ,
MANUEL BRIGARO,
Secretaries.

EXECUTIVE GOVERNMENT,
Bogotá, February 27, 1888.

Let it be published and executed.

RAFAEL NUÑEZ.

[L. S.]
(Countersigned.)
VICENTE RESTREPO,
Minister of Foreign Affairs.

[Inclosure 2 in No. 95—Translation—Extract from law 30, of 1888.]

ART. 34. A marriage, contracted in conformity with the rites of the Catholic religion, annuls *ipso jure* a purely civil marriage, previously entered into with another person.

ART. 35. For purely civil effects, the law recognizes the legitimacy of the children, conceived previously to the annulment of the civil marriage, in accordance with the provisions of the last preceding article.

ART. 36. The man who, after having contracted a civil marriage, afterwards marries another woman, according to the rites of the Catholic Church, is required to provide subsistence to the woman and his children by her until she marries canonically.

No. 281.

Mr. Bayard to Mr. Walker.

No. 68.]. DEPARTMENT OF STATE,
Washington, March 29, 1888.

SIR: In your No. 90, of the 28th ultimo, you state the case of Francis W. Putnam, an applicant for a passport.

Mr. Putnam is a native American citizen, a resident of the Republic of Colombia, and obtained, on December 20, 1884, a passport from Minister Scruggs. He was subsequently convicted in a Colombian court of a felony, sentenced to a term of imprisonment, which sentence he served out, when he was discharged without a pardon.

He now applies for a renewal of his passport, and you ask the opinion of the Department in the case.

The question presented is whether a foreign conviction of crime is a bar to an application by the party convicted for a passport, and the Department holds that it is not, because foreign convictions of crime are not to be regarded as extraterritorial in their operation.

It would be well, however, in the present case, before issuing a passport, to inquire whether the applicant retains his American nationality or whether he has abandoned it with no intention of renewal.

Allegiance and protection are correlative, and if the former has been forsaken the latter is no longer due. If the applicant has no intention of performing the duties of an American citizen he has no just claim for a certificate of such citizenship.

I am, etc.,

T. F. BAYARD.

No. 282.

Mr. Walker to Mr. Bayard.

[Extract.]

No. 105.] LEGATION OF THE UNITED STATES,
Bogotá, April 7, 1888. (Received May 5.)

SIR: I have the honor to acknowledge the receipt of your No. 63, of the 6th of March last, and would inform you, that when the intention of the Colombian Government to let a contract for the ice monopoly on the Isthmus of Panama was first made public, I looked into the question with the view of protesting against it, should I find sufficient grounds. I found, however, that it had long been the custom of this Government to grant such monopolies. For instance, the exclusive privilege of slaughtering, the sale of salt, tobacco, cigars, cigarettes, and lucifer matches, in Bogotá and other places in the Republic, is sold

to the highest bidder, in the same manner as has just been done with the ice monopoly on the isthmus.

On general principles I felt sure that such a measure could but be prejudicial to American interests.

The first letting was fixed for the 18th of January last, and on the 15th I received a cablegram from the agent of the Boston Ice Company requesting my interference in its behalf. This was the first intimation I had had of its interest in the question, or of the existence even of such a company. I immediately called on the minister of foreign affairs, Holguin, and unofficially represented to him the injury the proposed measure would be to the company in question, and generally the impolicy of such a measure. He replied, in substance, that the Government was compelled to draw revenue from every available source, and that the letting would have to be made in accordance with the published programme. I pointed out to him that, as there were but three days before the letting, the time ought to be extended, so as to allow the Boston Ice Company to take measures to protect its interest, or to bid for the contract should it desire to do so. He admitted the fairness of this suggestion, and promised to see the President, and if possible to have the time for closing the contract extended. The day following he informed me he had seen the President, and that letting had been postponed forty days, namely, until the 1st day of March.

In both of these interviews with Minister Holguin I dwelt upon the injury the granting of this monopoly would be to the company which had long been engaged in the ice business on the isthmus, and had a large capital embarked in the enterprise, and that in any event time should be allowed it to dispose of its stock and plant, and suggested one year for this purpose. He admitted the reasonableness of this suggestion, and promised that it should be taken into consideration when the contract was to be formulated, but added that he could not promise that as much as a year would be granted, but said he would do the best he could. The Government did fix ten months from the day of letting for the contract with the new parties to go into effect, and I was assured by Minister Restrepo afterwards that this time was given in compliance with Minister Holguin's promise to me.

In accordance with the invitation for proposals from Minister Restrepo, dated Bogotá, January 21, 1888, the contract was let out in this city on the 1st day of March, and was taken by Messrs Maal, José Ma. Sierra, Juan de C. Gaveria, and associates, for the term of twenty years, at $45,000, Colombian silver, per annum, payable yearly in advance; the contract to go into effect ten months from the date of the letting.

I have just returned from an interview with Señor Restrepo, minister of foreign affairs, in which I called his attention to the points dwelt on in your dispatch, as objections against the ice monopoly. He assured me that nothing but the poverty of the Government would have induced it to grant the monopoly in question, but that the contract had now been made, as I already knew; the money required from the grantees to insure its fulfillment on their part had been deposited; and that it was therefore irrevocable. To the friendly expressions in your dispatch towards the Colombian Government the minister replied that these sentiments were fully reciprocated by his Government, and that as an evidence of its desire to throw no obstructions in the way of the freest trade intercourse between the two countries his Government had permitted the free introduction of fresh beef on ice from the United States, notwithstanding the fact that there was a slaughter monopoly on the isthmus.

It may be mentioned that the Boston Ice Company itself enjoyed the advantages of an ice monopoly at one time on the isthmus, as I am informed by Mr. R. W. Rice, its Panama agent, in a letter to this legation, dated January 2, received January 18 last.

I am, etc.,

JNO. G. WALKER.

No. 283.

Mr. Bayard to Mr. Walker.

No. 75.] DEPARTMENT OF STATE,
Washington, April 17, 1888.

SIR: A copy of your No. 92, of the 1st ultimo, concerning the entire closure of the Pacific isthmus ports against vessels coming from Chili, having been inclosed to the Postmaster-General, I now state in substance his views in regard to the question.

While this is the first instance known to the Post-Office Department of an absolute exclusion of the mails as a sanitary measure, yet it is to be observed that the ordinary precautions of disinfection, etc., have never proved entirely effective as regards cholera, and therefore, despite the inconvenience caused by the action of the Colombian Government, the Postmaster-General is of opinion that we will have no tenable ground of complaint if the ports are opened as soon as the danger of infection ceases.

This Department is, however, disposed to regard the Colombian measures as extreme and at variance with the usages of civilized nations, not to speak of the transit question involved.

The mails are, as we are informed, now being sent to Chili via Buenos Ayres.

I am, etc.,

T. F. BAYARD.

No. 284.

Mr. Bayard to Mr. Walker.

No. 78.] DEPARTMENT OF STATE,
Washington, April 28, 1888.

SIR: The Department has been informed by our consul-general at Panama that citizens of the United States are required to pay a capitation tax in that department from which British subjects are exempted by virtue of the treaty between Great Britain and Colombia of 1866.

Reply was made to the consul-general's protest by the secretary-general that the matter has been referred to the supreme Government of the Republic.

This Department holds that citizens of the United States in Colombia are exempted from paying any tax from which the subjects or citizens of another power are exempt both by the "favored nation" clause of our treaty of 1846 with Colombia, and by the general principle of the law of nations which justifies this Government in insisting that there shall be no undue discrimination against citizens of the United States wherever they may be resident.

You are instructed to bring this question to the attention of the Colombian Government, and to urge the Department's views upon it.

I am, sir, etc.,

T. F. BAYARD.

No. 285.

Mr. Bayard to Mr. Walker.

No. 81.] DEPARTMENT OF STATE,
Washington, June 6, 1888.

SIR: I inclose copy of a letter from Mr. Leonard Myers, of Philadelphia, relating to the claim of the Panama Star and Herald against the Government of Colombia.*

As this case does not fall within the lines of the negotiations begun some time ago in reference to the settlement of claims for destruction of property during the disturbances on the Isthmus, it is hoped the Colombian Government will consider and adjust the claim on its merits and without reference to the method of disposing of other classes of claims.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 81.]

Mr. Myers to Mr. Bayard.

125 SOUTH SEVENTH STREET,
Philadelphia, May 12, 1888.

DEAR SIR: Your polite reply this day received informs me that the claim of the Panama Star and Herald was presented by our minister at Bogota to the Government of Colombia, and that the minister of the latter Government suggested that it be presented with others growing out of the disturbances of 1885 in the Isthmus to the claims convention for the creation of which negotiations are still pending.

I am much pleased that no authority has been given to our minister to assent to this proposition.

I had the honor in my letter of May 23, 1887, to write you that the wrong done to the Panama Star and Herald was not until 1886 and did not arise out of the disturbances of the previous year.

The outrage was an independent one, not caused by insurgents, but a seizure by the authorities themselves. It does not fall within the scope of the Congressional inquiry of February 16, 1887, your reply to which was made on the 19th of that month.

It was natural that Colombia should endeavor to postpone a settlement, just as she wishes to postpone the creation of the claims convention which is contemplated.

My clients, however, who are on the spot, have reason to believe that if we refuse to place this claim with those to which it has no relation Colombia will settle it and was prepared to do so. This arises from a Government offense, and I respectfully urge that whether it arose from misapprehension or error of judgment, we may fairly call upon Colombia to make redress without waiting for the ascertainment of claims founded upon the actions of her citizens.

I beg that you will instruct our minister to make this distinction and to use his best endeavors for the settlement of the Star and Herald claim.

I am, with regards, very respectfully, yours,

LEONARD MYERS.

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* For previous correspondence relative to the case of the Panama Star and Herald, see Foreign Relations 1886, pages 168–176.

No. 286.

Mr. Walker to Mr. Bayard.

No. 116.] LEGATION OF THE UNITED STATES,
Bogotá, June 7, 1888. (Received July 10.)

SIR: I have the honor to state that your No. 78, of April 28, last, was received at this legation on the 30th ultimo, and that on the same day I addressed a communication to the minister of foreign affairs, a copy of which I herewith inclose, and that on the 2d instant I received the minister's reply, a copy of which I have also the honor to inclose, with a translation.

As soon as any further information on the subject of these communications is received at this legation, I shall hasten to lay it before you.

I am, etc.,

JNO. G. WALKER.

[Inclosure 1 in No. 116.]

Mr. Walker to Mr. Restrepo.

LEGATION OF THE UNITED STATES,
Bogotá, May 30, 1888.

SIR: The undersigned, chargé d'affaires *ad interim* of the United States, presents his compliments to his excellency the minister of foreign affairs, and invites his attention to the following statement:

It has been brought officially to the knowledge of the undersigned that the local government of the department of Panama has ordered the levy and collection of a capitation tax on citizens of the United States residing in that department from which the subjects of Great Britain are exempt.

The undersigned is therefore directed by his Government to call the attention of that of Colombia to these facts, and to say that it "insists that there shall be no discrimination against the citizens of the United States, wherever they may reside," since such discrimination is in violation of the provisions of the 7th article of the treaty of 1846, and of the general principle of the law of nations.

The undersigned trusts, therefore, that the supreme Government of Colombia will take early measures to remove this just cause of complaint.

The undersigned avails, etc.,

JNO. G. WALKER.

[Inclosure 2 in No. 116.—Translation.]

Mr. Restrepo to Mr. Walker.

REPUBLIC OF COLOMBIA,
MINISTRY OF FOREIGN AFFAIRS,
Bogotá, May 2, 1888.

The compliments of the minister of foreign affairs to the honorable chargé d' affaires of the United States, and he has the honor to reply, by means of the present communication, to your polite note of the 2d of May last.

As there are no antecedents in the ministry of foreign affairs which enable it to determine the nature of the contribution of which you speak, and which you say has been levied upon the citizens of the United States in Panama, it is necessary to make inquiry of the administrative authorities of that department.

With this object, the undersigned has just dispatched a telegram to the administrator of customs at Buenaventura, directing him to send, by the first mail steamer, a dispatch to the governor of Panama, requesting information as to the character of the tax, upon whom levied, under what form, and all the circumstances, which will enable us to determine its compatibility or incompatibility with treaties, and with the universal rules of the law of nations.

I promise your honor that as soon as this information is received it shall be communicated to the honorable legation of the United States, together with the resolution in the case.

The undersigned has the honor to renew, etc.,

VICENTE RESTREPO.

No. 287.

Mr. Walker to Mr. Bayard.

[Extract.]

No. 122.] LEGATION OF THE UNITED STATES,
Bogotá, June 21, 1888. (Received July 21.)

SIR: I transmit you the inclosed translation of a law passed a few days ago by the national legislative council.

I am, etc.,

JNO. G. WALKER.

[Inclosure in No. 122.—Translation.]

Law 61 *of* 1888, *May* 25, *clothing the President of the Republic with extraordinary powers.*

The national legislative council decrees as follows:

ART. 1. The President is hereby authorized—

(1) To prevent and repress, administratively, all offenses and crimes against the state which affect public order, and may impose, according [to] the gravity of the case, the penalty of imprisonment, expulsion from the country, or deprivation of political rights, for such period as he may deem necessary.

(2) To repress or prevent, by similar penalties, conspiracies against public order and attempts against public or private property, which may, in his judgment, involve a menace to public order, or a design to create terror in the public mind.

(3) To strike from the list of the army the names of such officers who, by their conduct, are, in the opinion of the chief magistrate, for the time being, unworthy of the confidence of the Government.

ART. 2. The President of the Republic shall have the right of supervision over and inspection of all scientific associations and institutions of learning, and is authorized to suspend for such period as he may deem expedient any society or establishment which, under the mask of learning, may be the focus of revolutionary propaganda or subversive teaching.

ART. 3. The measures taken by the President of the Republic shall be carried definitively into effect, in accord with a council of ministers.

ART. 4. The imposition of penalties under this law shall not exempt guilty parties from such judicial punishments as may be imposed under the penal code by the judicial authorities.

ART. 5. This law shall cease to be effective whenever the Congress of the Republic shall enact a law relating to high national police.

EXECUTIVE GOVERNMENT,
Bogotá, May 25, 1888.

Publish and execute.

RAFAEL NUÑEZ.

No. 288.

Mr. Maury to Mr. Bayard.

No. 133.] LEGATION OF THE UNITED STATES,
Bogotá, August 1, 1888. (Received September 1.)

SIR: I have the honor to inclose copies and translations of my correspondence with the minister of foreign affairs relating to a passage in President Nuñez's late message to the Colombian Congress.

All the foreign legations in this city sent notes similar to those addressed by me, and all received an identical reply.

Hoping to obtain your approbation of my action on this important subject,

I have, etc.,

DABNEY H. MAURY.

[Inclosure 1 in No. 133.—Translation of the extract of President Nuñez's message to the Colombian Congress.]

At the present time we are running the danger of sacrificing our sovereignty, in the inmost sense of this word, as, on more than one occasion, our impatience has decided to try the expedient of prodigal concessions, which being in reality beyond our means, open a wide avenue to the cupidity of foreign speculators, supported by governments which are often not inspired by the wholesome principles of justice.

[Inclosure 2 in No. 133.]

Mr. Maury to Mr. Restrepo.

LEGATION OF THE UNITED STATES,
Bogotá, July 24, 1888.

SIR: I have just seen the following passage which occurs in the message published in the Diario Oficial, No. 7457, from the most excellent President of Colombia to the National Congress which assembled on the 20th instant:

"Hoy corremos hasta el peligro de sacrificios de soberania, en el sentido intimo de esta palabra, porque, en mas de una ocasion, la impaciencia se decide á tentar el expediente de prodigas concesiones que, siendo en realidad impracticables, abren ancha avenida á la codicia de especuladores extraños, amparados por Gobiernos que no á menudo se inspiran en los sanos consejos de la justicia."

I respectfully request that your excellency will inform me if the Government of the United States of America, which I have the honor to represent, is included in this censure expressed by the most excellent President of Colombia, and if yes, will not your excellency cite the instance in which it is felt that the action of my Government has not been inspired by justice.

Awaiting your excellency's reply with deep anxiety,
I am, etc.,

DABNEY H. MAURY.

[Inclosure 3 in No. 133.]

Mr. Restrepo to Mr. Maury.

REPUBLIC OF COLOMBIA,
MINISTRY OF FOREIGN AFFAIRS,
Bogotá, July 30, 1888.

MONSIEUR LE MINISTRE: Referring to the note of the 24th instant, with which your excellency has honored me, I must inform you that I fail to find in the late message of the President of the Republic to the congress any passage from which it can be logically inferred that that high magistrate imputes to the Government of the United States, or to any other government in special, intentions or acts of an unjust nature. The words quoted by your excellency do not suggest any reason for such a supposition, as they do not state whether they refer to native or foreign governments; whether to governments existing past, or to come; these words do no more than state an existing and undeniable fact, namely, that as amongst human beings there are individuals who are often not inspired by the wholesome principles of justice, so there are governments which act in a similar manner. It is clear that the statement of such a fact gives no grounds for any special persons to consider that reference is made to themselves in words, which, besides, since they refer entirely to home politics, could bear no international character, even if they were less abstract than they actually are.

And if to all this is added the solemn, spontaneous, and frequent proofs of friendship which the most excellent Rafael Nuñez, President of Colombia, has given to your excellency's Government, and the very high appreciation in which he holds this friendship, such a supposition must, I think, be considered as absolutely groundless.

I avail, etc.,

VICENTE RESTREPO.

[Inclosure 4 in No. 133.]

Mr. Maury to Mr. Restrepo.

LEGATION OF THE UNITED STATES,
Bogotá, July 31, 1888.

SIR: I thank your excellency for your courteous note of the 30th instant, received just now.

I am relieved to understand from it that when the most excellent President of Colombia, Señor Doctor D. Rafael Nuñez, said in his late message to the national congress that a wide avenue had been opened to the cupidity of foreign speculators, supported by governments which are often not inspired by the wholesome principles of justice, the most excellent President intended no reference to that of the United States as one of those misguided governments.

I avail, etc.,

DABNEY H. MAURY.

No. 289.

Mr. Maury to Mr. Bayard.

[Extract.]

No. 136.] LEGATION OF THE UNITED STATES,
Bogotá, August 9, 1888. (Received September 12.)

SIR: With reference to my No. 133, of the 1st instant, I have the honor to inform you that some general disapproval of the passage in President Nuñez' message has been evinced.

On the 2d instant a discussion took place in the Colombian senate on a proposition being made to send a congratulatory reply to President Nuñez. This was opposed by a number of senators who stated their disapproval to President Nuñez' insulting reference to foreign governments, and on the motion of the president of the senate the proposition to send a congratulatory reply was withdrawn.

On the 6th instant Dr. Nuñez went away, transferring the executive power to Señor Doctor Cárlos Holguin, who had been elected by congress to that post in the absence of Dr. Nuñez. Dr. Holguin was duly installed on the 7th, and I have the honor to inclose his inaugural address. In it he makes graceful and ample amends for the offensive words of President Nuñez.

I have, etc.

DABNEY H. MAURY.

[Inclosure in No. 136.—Translation.]

DR. CÁRLOS HOLGUIN'S INAUGURAL ADDRESS.

YOUR EXCELLENCY. I consider that the exceptional proof of confidence which the body over which you so worthily preside has just given me, binds me almost as much as the oath which in my capacity as a Christian magistrate I have just taken to act as an honorable guardian and faithful executor of the constitution and the laws. I do not remember any other occasion on which the unanimous vote of the representatives of the nation has been obtained for so important a post. Pardon me therefore if at the risk of appearing egotistic I avail myself of so solemn a moment to express my gratitude and offer it to the nation as a pledge of my fidelity and respect. For it seems as if that august body had intended to supplement my lack of ability and merit by its authority, and that the chosen of the people had lent their crown of light and strength to my modest personality as if to raise and render it fit for the position for which it is destined.

It is a universal custom, on occasions like the present, for those who are assuming the chief command of a nation, to give some sketch of the measures they propose to carry out during their period of government.

Although from the fact that I am about to occupy the presidential chair temporarily only I might consider myself exempted from this duty, I think that both the congress and the nation would consider a few words said by me, for the purpose of showing my opinions on the most essential points of government, as a mark of deference.

With respect to foreign politics I shall continue to cultivate the good relations of the Republic with friendly nations, religiously fulfilling our treaties and endeavoring to present Colombia before their eyes more worthy every day of their consideration and respect. This will be an easy task, since we have no grave international question pending, since the nations with whom we have common boundaries are ruled by just and friendly governments, and since, so far as concerns foreign powers, the well-chosen members of the diplomatic corps which they have sent to honor us by their presence here are a pledge of sympathy with us and of peace and harmony in the future.

My line of conduct in internal politics is duly traced out by the constitution. I do not intend to depart either from the constitution or from those laws which have been or may be issued in the work of its development. My own wish is that the government over which it is my duty to preside shall be distinguished by a moderate, conciliatory, honorable, and just but at the same time energetic and unvacillating policy when public order and peace are at stake, that under its shelter this exhausted people may seek repose; a government that may be looked upon as a protector to all legitimate interests, but also as a bridle upon all manifestations of disorder and a sword against all threats of anarchy.

Promises of liberty would be superfluous. We are all her sons, nursed at her breast, nourished with her spirit, accustomed to her conflicts. She holds an empire of love in all our hearts, and we look forward to see all the germs of welfare and progress spring up and develop under her protecting shield, in this land of her conquest, on some day like this, for the cause of civilization. This is the reason why men of the political school to which I belong are little alarmed when we hear talk of the dangers which some few and salutary constitutional checks are supposed to cause to her. We reserve our anxieties for the time when it is a question of carrying her to the public square, clad as a Bacchanal, to preside over scandalous and revolutionary orgies.

Jealous of their honor and friends of truth, the conservative parties everywhere disdain to seduce the multitude by attractive promises impossible to realize and limit themselves to offering and granting in their codes what they are legally and morally able to fulfill.

I shall try to give such support to the works of material progress already begun, and to the new ones which we may initiate as the condition of the resources of the country may justify.

Everything which tends to increase, open up, and rationally protect commerce and industry, to consolidate the credit of the country, and to facilitate transactions between private persons, demands in my judgment especial attention on the part of the Government and very careful study. I believe that we ought, as we have done hitherto, to pay the greatest attention to the education of youth, taking care to multiply institutions destined for such a noble object, but acting, at the same time, with the prudence which your excellency recommends, that they shall be always under the charge of men of good intentions and religious spirit, who will form in the fear of God the hearts of the generations called upon to replace us.

I will cause that discipline and morality to be maintained in the army which have made it the safeguard of our institutions and the guaranty of the integrity and honor of the country.

And, finally, I will protect the religion of our fathers, as the constitution has ordered me to do, and will cultivate with special care the relations so happily re-established between the head of the church and this Catholic nation, accustomed always to seek from the blessings of heaven the realization of its honorable hopes on earth.

These, in short, are the propositions which I have in my mind on taking possession of the exalted position to which I have been called. I shall be happy if I can, in any respect, fulfill the hopes you have shown of me, founded, no doubt, on the opinions to the triumph of which I have devoted the best years of my life. I know that the labor which awaits me is arduous and the responsibility great, but be assured that I will devote to the service of my country all my strength and every hour of my life.

Besides, I have good will and full faith. The active help which I am sure to find in this Congress, which abounds with patriotism, experience, and talent, inspires me with faith. I trust that the political elements which have fought together in parliaments, in the press, and in battle-fields, until the final establishment of the new order of things to-day existing in Colombia, will not be dissolved during my administra-

tion; but, above all, I trust in the good feelings of the nation, which has given so many proofs that it well understands its own interests, which, in fact, are the only ones which this Government will bear always in mind.

The task which awaits me is, I repeat, arduous; but when it is considered whence we came and where we find ourselves now, one can not help feeling encouraged to continue the march, sure of arriving happily at the end of the journey. What remains to be done is very little compared to what has already been done. To bring Colombia safely out of the difficulties with which it has been struggling for a quarter of a century after a horrible shipwreck; to reunite its dissevered members and give to them cohesion so as to form a nationality with a life of its own; to give it institutions, laws, administration of justice, an army; to put God above all, restoring Him to His dominion and acknowledging His divine authority—all this must be done in order to base liberty on justice and security on order; and after this has been done what can turn us back or appear to us beyond our power?

Well, then, in order to obtain these benefits the irresistible will of one man (Nuñez) and the protection of Providence, of which we ought always to take account, have sufficed. I for my part will pledge myself to follow the luminous track which I find traced out, and I shall descend with pride from this post if whilst I occupy it I so act that my fellow-citizens judge me to be a worthy co-worker with the illustrious chief chosen by God to carry out the greatest political transformation of our history.

These are my aspirations, and there is one more: That not one drop of blood, not one tear may be shed in Colombia through the fault of the Government of which I to-day assume the Presidency.

No. 290.

Mr. Bayard to Mr. Maury.

No. 100.] DEPARTMENT OF STATE,
Washington, September 14, 1888.

SIR: I have received your No. 136, of the 9th ultimo, in which you refer to the political condition of Colombia, and to the disapproval shown as regards President Nuñez' offensive reference to foreign Governments, inclosing at the same time the inaugural speech of Dr. Holguin on his assuming the Presidential office.

Your dispatch has been read with much satisfaction.

I am, etc.,

T. F. BAYARD.

No. 291.

Mr. Bayard to Mr. Maury.

No. 114.] DEPARTMENT OF STATE,
Washington, November 27, 1888.

SIR: I desire to bring to your notice the complaint of the Boston Ice Company, an American corporation, against the Government of Colombia, which has received the renewed attention of this Department and a fuller examination than it was heretofore possible to make.

As you are well aware, this company has for a number of years supplied ice to the Isthmus of Panama. Its business has been very large, and has been conducted so satisfactorily that there has been and is now no complaint made against it, nor against the character or price of the commodity it sells; nor has there been any rival system of ice-selling introduced on the Isthmus to share with it public favor, though there has been the freest opportunity for such competition. Encouraged by this heavy business, developed both from the necessities of trade and by its own good conduct, the Boston Ice Company has invested large sums of money in its works and buildings on the Isthmus, and has estab-

lished a business the plant and good-will of which may be estimated at $1,000,000.

By the decree of the Colombian Government, as to which you have already been instructed, a monopoly in the sale of ice in the Isthmus, and in Colombia generally, is to be granted to the highest bidder, it being a condition of the sale that those obtaining the proposed monopoly shall renounce their right, if they be citizens of a foreign country, to call on the sovereign of that country to procure redress in case wrong be done them.

I have now to instruct you that the decree is, in the opinion of this Department, in contravention not merely of treaty stipulations, but of the fundamental sanctions of international law. The condition of renunciation of political rights which it imposes on the purchaser of the proposed monopoly is one to which the members of the Boston Ice Company, all of them respectable and responsible citizens of Massachusetts, must refuse their assent, not merely from loyalty but from policy. No citizen of the United States doing business in a foreign land can, with due self-respect, or with due respect to his own country, make such a renunciation.

In Article II of the treaty of 1846, which is still in force, between the United States and Colombia, the respective parties thereto "engage mutually not to grant any particular favor to other nations, in respect of 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."

The "favored nation" clause takes us to the third article of the treaties between the Republic of Colombia and Sardinia and France, respectively, and to the second article of the treaties between the Republics of Colombia and Peru, Portugal and Great Britain, respectively, in which there is granted to the citizens of the respective countries *an unlimited liberty of trade* to the cities of the contracting parties.

Article III of the treaty of 1846, as aforesaid, provides that—

> The two high contracting parties, being likewise desirous of placing the commerce and navigation of their respective countries on the liberal basis of perfect equality and reciprocity, mutually agree that the citizens of each may frequent all the coasts and countries of the other, and reside and trade there *in all kinds of produce, manufactures, and merchandise.*

It is further provided that such citizens "shall enjoy all the rights, privileges, and exemptions in navigation and commerce which native citizens do or shall enjoy, submitting themselves to the laws, decrees, and usages there established, to which native citizens are subjected."

Article VII of the same treaty provides:

> It is likewise agreed that it shall be wholly free for all merchants, commanders of ships, and other citizens of both countries, to manage by themselves or agents their own business in all the ports and places subject to the jurisdiction of each other, as well with respect to the consignments and sale of their goods and merchandise by wholesale or retail, * * * they being in all these cases to be treated as citizens of the country in which they reside, or at least to be placed on an equality with the subjects or citizens of the most favored nation.

These stipulations are re-affirmed in the first division of Article XXXV, with particular reference to the Isthmus.

In Article XVII, certain articles are specified as comprehended under "contraband," among which ice is not included.

Article XVIII provides that—

> *All other* merchandise, and things not comprehended in the articles of contraband, explicitly enumerated and classified as above, shall be held and considered *as free, and subjects of free and lawful commerce*, so that they may be carried and transported in the freest manner by the citizens of both the contracting parties, even to places belonging to an enemy. * * *

Article XXXV provides that—

The citizens, vessels and merchandise of the United States shall enjoy in the ports of New Granada, including those of the part of Granadian territory generally denominated Isthmus of Panama from its southernmost extremity until the boundary of Costa Rica, all the exemptions, privileges and immunities concerning commerce and navigation, which are now or may hereafter be enjoyed by Granadian citizens, their vessels and merchandise, and that this equality of favors shall be made to extend to the passengers, correspondence and merchandise of the United States, in their transit across the said territory, from one sea to the other. The Government of New Granada guaranties to the Government of the United States that the right of way or transit across the Isthmus of Panama * * * shall be open and free to the Government and citizens of the United States, and for the transportation of any articles of produce, manufactures or merchandise * * * belonging to the citizens of the United States; that no other tolls or charges shall be levied or collected upon the citizens of the United States, or their said merchandise thus passing over any road or canal that may be made by the Government of New Granada, or by the authority of the same, than is, under like circumstances, levied upon and collected from the Granadian citizens; that any lawful produce, manufactures or merchandise belonging to citizens of the United States, thus passing from one sea to the other, in either direction, for the purpose of exportation to any other foreign country, shall not be liable to any import duties whatever; * * * nor shall the citizens of the United States be liable to any duties, tolls, or charges of any kind to which native citizens are not subjected for thus passing the Isthmus.

It was to secure these guaranties—to protect investments in Colombia by American citizens from exactions such as that now complained of—that this Government, as is stated by President Polk in his message of February 10, 1847, transmitting this treaty to the Senate, consented to the insertion therein of the guaranty by the United States of "the perfect neutrality of the before-mentioned Isthmus."

The condition now sought to be imposed upon the Boston Ice Company would be in derogation of the spirit of the treaty, and it should require the citation of no especial stipulation to induce the Government of Colombia to abstain from any measures the practical effect of which is manifestly the destruction of American property—property bought and established by American enterprise and capital, and productive of so much profitable business in Panama.

The prompt relief given by the United States in pursuance of its treaty guaranties to the Colombian Government, when in such great difficulties in 1885, should never be forgotten; and our citizens in Panama should feel the benefit of it in the justly favorable treatment of that Government.

The imposition of such a condition as that here adverted to is wholly useless as a means to the attainment of any beneficial results. And this Department can not suppose that the Government of Colombia intends to employ it, or to permit it, to work injury to foreigners who may be subject to its laws, or desires to impute to the United States or other powers the design of obtaining for their citizens or subjects, by the protection they afford, anything more than can in justice be demanded.

The creation of such a monopoly as that set up by the decree would be in conflict with that unlimited liberty of trade which is secured to the United States by the treaty of 1846. It will be a serious blow to the friendly relations of the people and Government of the United States with Colombia, and to their desire for closer commercial intercourse, if, under color of laws granting exclusive and monopolistic privileges, such disastrous interference with the natural course of trade in Colombia is attempted, and the effect of such action will be most severely felt along the route of the transit across the Isthmus of Panama, the unembarrassed use of which it was the main object of the United States in the treaty of 1846 to secure.

The effect of excluding American citizens from the free and equal opportunity to carry on "unlimited trade" would not be merely to nullify the most favored nation clause of the treaty. It would be a most unfriendly and destructive act against the citizens of a friendly power, the beneficial effect of whose prompt action on so recent an occasion Colombia has attested by her expressions of thanks.

It is the duty of Colombia to protect against extortion or unequal treatment American citizens who have carried their capital and property to Panama and invested them permanently under the guardianship of her laws. The United States look for a generous and friendly construction of treaty obligations and of the duties of international comity towards their citizens in Colombia, and have a right to expect it.

It is believed that these representations being frankly and distinctly made, will suffice to prevent disfavor being shown to the Boston Ice Company, which has been so especially useful to citizens and travelers in Panama, and it is hoped that you will receive assurances which will relieve this Government of all further apprehensions of such injurious results.

In this way it is believed that the necessity of a formal protest will be obviated. The United States should not be compelled to proceed further in vindication of the rights of its citizens to just and friendly treatment, and the Department entertains no doubt that when the attention of the Government of Colombia is called to the true nature of the case, it will afford prompt relief.

I am, etc.,

T. F. BAYARD.

COREA.

No. 292.

Mr. Dinsmore to Mr. Bayard.

[Extract.]

No. 53.] LEGATION OF THE UNITED STATES,
Seoul, Corea, September 30, 1887. (Received November 10.)

SIR: To-day at 3 o'clock p. m. I had the honor to dispatch to you a telegram reporting that the departure of the recently appointed Corean envoy to the United States had been interfered with by the Chinese minister at Seoul, acting under the instructions of the Emperor of China.

It was publicly announced in Seoul in the official gazette on that date that Mr. Pak Chun Yang had been appointed by His Majesty the King of Corea envoy extraordinary and minister plenipotentiary to the United States. Since that time Mr. Pak and his friends have been very active making preparations to set out on the mission, the King taking the greatest interest in the matter. The minister's suite was fully formed, all the secretaries and interpreters being appointed.

At the King's urgent request, Dr. H. N. Allen, one of our best and most useful American residents, was induced to accept the second place in the mission with the title of American secretary. Dr. Allen repaired with his family to Chemulpo, there to join the minister and sail on the 27th instant, and two other members of the mission had gone overland to Fusan there to attach themselves to the suite, when on Saturday last the minister, having taken formal leave of His Majesty, retired immediately without the walls, as is their custom, to leave his capital city for Washington.

The Chinese minister, since his visit to Chemulpo professedly to leave for China in August last, as reported in my number 51 of August 23, has been in seclusion almost the whole of the time, but within the last ten days he has made his presence known by his efforts to interfere with the mission to America.

He importuned the King, as I am informed, to change his purpose, but the King insisted that the minister should go, even after Mr. Yuan, the Chinese minister, had reported to him a telegram received by him from the Viceroy Li Hung Chang.

I have obtained a reliable translation of Mr. Yuan's note communicating this message, and have the honor to inclose a copy herein, and a second telegram reported as having been received from the Viceroy, by order of the Emperor, demanding that Corea must first obtain China's consent before she sends ministers abroad.

A correct translation of Mr. Yuan's note, containing a copy of this telegram, is also inclosed herewith.

When Mr. Pak had gone out of the city gate he was met by Chinese officers, it is said, and was induced to delay his departure. He remained outside of the walls, I am informed by Coreans, two or three days, when he was summoned back by the King, who is extremely anxious to have his minister go, and has sent me messages every day that he would send him; but he has been led to believe that China will make war on him, and he knows that without assistance he could offer but a weak defense.

On Tuesday, accordingly, I wrote a note to Mr. Yuan, in respectful terms, expressing my surprise at what I had learned to be his course in the matter of the Corean mission to the United States, citing the terms of the treaty and the instrumentality of the Viceroy in effecting the treaty and his knowledge of its provisions, and asking why he should discriminate unfavorably against us as between the United States and Japan; that no objection had been urged to a minister going from Corea to the latter country. Inclosed I transmit a copy of my note.

On my return to the legation from the telegraph office I found an official letter in answer, a copy of which is herewith inclosed, setting forth what he understands to be the facts, and denying that he prevented the departure of the minister, but setting up the claim of the suzerainty of China and the necessity of her consent before Corea may send missions abroad.

I have, etc.,

HUGH A. DINSMORE.

[Inclosure 1 in No. 53.—Translation.]

Mr. Yuan Sü-Kwai to the Corean Government.

On the 2d of this moon (September 18) I received a telegram from Li Hung Chang of following contents: "According to general rules of international relations of Corea, she has first to consult with me. I heard lately that Corea is sending ministers to foreign countries, and does so without first consulting me. Besides, in foreign countries Corea has no merchants or trade. What necessity is there, then, for sending ministers abroad? It would only overburden you with debt. What affairs have the ministers to attend to, and what object have you in view?

"Communicate the receipt of this telegram to the Corean Government and let me know the result."

Having received this telegram, it became my duty to inform the Corean Government. Send me an answer soon, so that I may send it in due time to the Viceroy.

I hope you will refrain from carrying out your inclination.

[Inclosure 2 in No. 53.—Translation.]

Mr. Yuan Sü Kwai to the Corean Government.

SEPTEMBER 23.

To-day at 9 o'clock I received from his excellency the Viceroy Li Hung Chang the following telegram:

"I have received by telegram, through Tsung-li Yamên, the following imperial order: Corea is sending ministers to western countries. She has certainly first to ask our permission, and after getting it, to send them.

"This would be the way for a dependent State to act.

"Let the Corean Government know this as soon as possible, so that it may be able to act in accord with the imperial order."

Having received this, I feel it my duty to officially inform the Corean Government. Please kindly take notice of this and carry out the imperial order.

[Inclosure 3 in No. 53.]

Mr. Dinsmore to Mr. Yuan Sü Kwai.

LEGATION OF THE UNITED STATES,
Seoul, Corea, September 27, 1887.

SIR: More than a month ago it was publicly and officially announced by the Corean authorities in Seoul that Mr. Pak Chun Yang had been appointed by His Majesty the King of Corea minister plenipotentiary to the United States. On the 16th instant I received a dispatch from the Corean foreign office, informing me officially of the appointment, and saying that the minister would proceed at once to Washington. The minister's suite was completely formed, the secretaries duly appointed, one of whom is Dr. H. N. Allen, an American citizen, who, in pursuance of his appointment, has disposed of all his property in Seoul at a sacrifice and left the capital with his family for the port of Chemulpo, where he expected to join the minister and sail immediately for America. I am advised that his excellency the minister had taken formal leave of his sovereign, preparatory to departure, when, at the last moment, I learn to my surprise that he is not to depart, and that the cause is interference of your excellency, acting officially under authority of His Imperial Chinese Majesty's Government.

Will you kindly inform me whether it be true that you have prevented the sending of the minister to the United States, as His Majesty the King of Corea was about to do, and whether you have been directed by your Government to do so?

Such a course on the part of the Chinese Government could not but be surprising, when we consider that the treaty between the United States and Corea, largely brought about through the kindly instrumentality of his excellency the Viceroy Li Hung Chang, to whom all its terms were fully known, expressly provides that "the high contracting powers may each appoint diplomatic representatives to reside at the court of the other, and may each appoint consular representatives at the ports of the other which are open to foreign commerce at their own convenience."

Again, I am unable to conceive upon what ground China would make a discrimination between the United States and Japan unfriendly to the former Government. A minister was sent by His Majesty the King of Corea to reside at the court of His Imperial Majesty the Emperor of Japan, without objection from the Chinese Government. It is difficult to believe that the Imperial Chinese Government has adopted a course towards the United States in this matter so at variance with its friendly and considerate conduct in the past, and with the expressions contained in their treaty of friendship which have been so long observed.

I have, etc.,

HUGH A. DINSMORE,
Minister Resident of the United States.

[Inclosure 4 in No. 53.]

Mr. Yuan Sü Kwai to Mr. Dinsmore.

HIS IMPERIAL CHINESE MAJESTY'S RESIDENCY,
Seoul, 30 *September*, 1887 (*14th day, 8th moon, 13th year, Kwang Sü*).

SIR: I have the honor to acknowledge receipt of your dispatch No. 28 of the 27th instant, in which the contents have been carefully noted.

In reply I beg to say that I have heard all along about the same that you did with reference to the official announcement of Mr. Pak Chun Yang as having been appointed minister plenipotentiary to the United States, and that the secretaries and the minister's suite were completely formed.

But as to your statement that "when, at the last moment, you learned with surprise that the minister was not to depart, and that the cause was my interference, acting under instructions from His Imperial Chinese Majesty's Government," I can not explain your surprise otherwise but that you are not acquainted with its full particulars, which I will hereafter explain to you.

In the year of 1882, and the eighth year of His Imperial Majesty, the reign of Kwang Sü, my Imperial Government granted special permission to the King of Corea to establish a treaty of peace and friendship with the United States, and wherein it distinctly declares, and your Government acknowledges, Corea as a vassal State to China, and that any of her obligations to China shall be carried out without the slightest interference from other treaty powers, and I presume that you were aware of this before your arrival in Corea.

At the present circumstance, Corea sends missions abroad to all foreign courts when she has complied with such obligations that are binding her to China, and such obligations shall be performed without the slightest interference on the part of your Government.

Further, permit me to say that when Corea sent the minister to Japan my Government were informed of its proceedings after the mission had left Corea, and my Government had not but more than received the information, and had not even time to give it a reply, when again we hear that a minister plenipotentiary had been appointed to the United States. Therefore my Government, thinking that Corea had no longer remembered her obligations to China, telegraphically instructed me to inform the Corean Government to perform her duties and abide with the etiquette of a tributary state. I am not aware that the mission had been prevented, and moreover I am not aware that I prevented the sending of the minister to the United States.

It is the sincere desire of my Government to be on the friendliest of terms with all powers, and hope that you will be convinced that we make no discrimination between one country and another, and as to your statement that China makes a discrimination between the United States and Japan, it is only because your excellency is not aware of the full details of its proceedings and has been caused a most unnecessary uneasiness and surprise.

I avail myself, etc.,

YUAN SÜ KWAI,
H. I. C. M.,
By S. Q. R.

No. 293.

Mr. Bayard to Mr. Dinsmore.

[Extract.]

No. 38.] DEPARTMENT OF STATE,
Washington, October 7, 1887.

SIR: I have received your dispatches Nos. 48, 49, and 51, of August 20, 21, and 25, 1887, and your telegram of the 5th instant, the purport of which is not clearly understood, concerning the appointment of Corean envoys to the United States and Europe, and the political situation in Seoul in consequence of the King's action.

While, as I have already observed, your telegram is not wholly intelligible, yet when taken in conjunction with your dispatches Nos. 48, 49, and 51, enough is known to warrant an expression through the United States legation at Peking of surprise and regret at any obstruction by the Chinese Government to the sending of a Corean envoy to the United States under article 2 of the treaty between the United States and Corea, concluded May 22, 1882.

Further developments are awaited. Meanwhile you should advise fully and frankly with Mr. Denby at Peking.

I am, etc.,

T. F. BAYARD.

No. 294.

Mr. Dinsmore to Mr. Bayard.

[Extract.]

No. 63.] LEGATION OF THE UNITED STATES,
Seoul, Corea, October 15, 1887. (Received November 25.)

SIR: Referring to the matters reported to you in my No. 53 of September 30, it may appear to you that I acted indiscreetly in addressing the Chinese minister, and by that means eliciting the discussion or cor-

respondence which followed, making a positive issue between us, but to me it seemed unavoidable.

In the first place, I was aware that Mr. Yuan and his coadjutors were using the arguments set up in his dispatches to me with reference to our recognition of Corea as a dependent State, for the purpose of affecting the public mind, both foreign and Corean, favorably to the pretensions of his country, pretensions not authorized by the past history of the countries of Corea and China, to assist in bringing about a relation which has never before existed. A printed document has been circulated, I do not know by whom, purporting to be the text of the American Corean treaty, in the first paragraph of which appears the statement that "the United States recognizes Corea as a dependency of China." I saw one of these in the possession of the acting consul-general for Great Britain.

During the spring and summer I was several times spoken to by the Coreans with reference to their intention of sending a minister to the United States, but did not encourage it; at the same time I offered no discouragement. After the minister was sent to Japan, however, without the slightest objection from China, and I had met the Chinese minister at entertainments given in honor of the envoy to Japan, and I saw him take final leave of him with demonstrative congratulations, I confess I was taken by surprise when the mission to the United States was interfered with. The King informs me, through messengers, that the minister will certainly go in a few days; his son is quite ill at present, and is in imminent danger. If there are evidences of convalescence, I am informed that the minister will leave for America within a fortnight.

Judge Denny, foreign adviser, left some ten days ago for Tientsin to see the viceroy; whether to ask his consent I do not know.

I am, etc.,

HUGH A. DINSMORE.

No. 295.

Mr. Dinsmore to Mr. Bayard.

[Extract.]

No. 67.] LEGATION OF THE UNITED STATES,
Seoul, Corea, October 24, 1887. (Received December 5.)

SIR: On the 18th instant I had the honor to receive from you a telegraphic message to the following effect:

DINSMORE, *Minister,*
Seoul, Corea:

Definite proposals must be sent guarantying a liberal salary, payable monthly to the army instructors from the time of departure, and also allowances, transportation, and prepaid return for chief and two assistants.

BAYARD.

Immediately upon receipt of this dispatch I communicated its contents to the Corean foreign office.

Yesterday I received a dispatch from the president of the foreign office bearing the office seal, offering liberal terms to such military instructors as may come to Corea and enter the service of His Majesty

the King through the kind offices of the Government of the United States.

The King is extremely anxious for their early arrival, and at his request and expense I send to Nagasaki a telegraphic message to be dispatched to you from there, so that it may not pass through the hands of the Chinese.

I may remark that the house offered for the occupancy of the instructors will be unfurnished, and they will have to furnish it themselves.

The place is fresh and clean, having never been occupied since it was finished. Its capacity is not ample for those gentlemen, but the King offers to make it comfortable for them.

I have, etc.,

HUGH A. DINSMORE.

No. 296.

Mr. Bayard to Mr. Dinsmore.

No. 44.] DEPARTMENT OF STATE,
Washington, November 1, 1887.

SIR: I take pleasure in herewith transmitting for your information and for the files of your legation a copy of a letter from the Acting Secretary of the Navy, dated the 24th ultimo, covering a communication from Rear-Admiral Chandler, in command of the United States naval forces on the Asiatic Station, reporting his late visit to Corea, and expressing appreciation of the courtesies shown him by yourself.

In this connection I have said to the Secretary of the Navy, in returning the original dispatch, as follows:

It is always gratifying to see cordial relations and mutual civilities between the diplomatic and consular representatives of this Government and the naval commanders on foreign stations. This is especially necessary in the waters of the East, where our interests are varied and exposed to injury.

I am, etc.,

T. F. BAYARD.

[Inclosure in 1 No.44].

Acting Secretary of the Navy to Mr. Bayard.

NAVY DEPARTMENT,
Washington, October 24, 1887.

SIR: I have the honor to send you herewith, informally, for t e information of the Department of State, a dispatch from the commander-in-chief of the United States naval force on the Asiatic Station, dated the 18th ultimo, with reference to his visit to His Majesty the King of Corea, and the courtesy shown himself and the officers and men who accompanied him, by our minister to Corea, Hon. Hugh A. Dinsmore.

May I ask that the dispatch, which is sent you in the original, may be returned for the files of this Department when you have finished with it?

I have, etc.

D. B. HARMONY,
Acting Secretary of the Navy.

[Inclosure 2 in No. 44.]

Admiral Chandler to Secretary of the Navy.

OFFICE OF THE COMMANDER-IN-CHIEF
UNITED STATES NAVAL FORCE,
FLAG-SHIP BROOKLYN,
Nagasaki, Japan, September 18, 1887.

SIR: I have the honor to inform the Department that on the 30th August I left Nagasaki in the flag-ship for Chemulpo, Corea. I had previously informed our minister to Corea, Hon. Hugh A. Dinsmore, of my intended visit, and he wrote me that as the King of Corea had never heard a foreign band, he had expressed a desire for me to take our band to the capital when we arrived at Chemulpo. I arrived there on the 1st September. The only way of reaching Seoul overland is in chairs, carried by four coolies, over a very rough road. I therefore hired two junks, one for myself and officers, and the other for the band, and, in tow of the steam-barge and steam-gig, started by river for Seoul at 1 p. m. on the 5th instant. The trip would have been made in nine hours if we had not been stopped by a sand-bar. At 11 a. m. of the 6th instant we arrived at Mapu, 3 miles from Seoul, and at the head of navigation of the Seoul River. Mapu is the port of entry for the capital. Chairs for the officers were sent down from Seoul and horses for the band, and we reached Seoul at 3 p. m. of the 6th instant, where most of the officers and the band were quartered at the United States legation.

On Thursday, September 8, at 3 p. m., an audience was had with His Majesty and the Crown Prince, at which the King expressed the highest appreciation of the United States and the cordial manner in which his visiting countrymen were received and treated on their arrival in the United States in September, 1883. His Majesty informed me that he would soon send Pak-Chun Yang as minister to represent Chosen at Washington. In reply I stated to him that our Government and people felt a great interest in the progress and welfare of Chosen and would welcome his representative most cordially. His Majesty and people always speak of their country as Chosen, not Corea. Our band accompanied us to the palace and played for two hours much to the delight of the King. The reception was followed by a banquet, the dances of the country by boys, accompanied by a native band with string and reed instruments. The cordiality of the King, the banquet, and the dancing that followed were novel and interesting and lasted until after 10 p. m. The King is a man of more than ordinary intelligence, progressive in all his ideas, and anxious to adopt our customs, fostering trade with us, and encouraging his subjects, who seem to be a docile, good-natured people, to advancement in their different trades and callings. So far as I could learn foreigners are as safe and as well treated in Chosen as they would be in their own countries.

We started on our return by river at 11 a. m. on the 10th September, and reached the ship at 4 p. m. on the 11th instant, and left Chemulpo for this port on the 15th, where we arrived at 2.30 p. m. on the 17th September. I can not close my communication without expressing my obligation to Hon. Hugh A. Dinsmore, our chargé. He has been ill for some time, but accompanied and introduced us to His Majesty and remained until the close of the evening's entertainment. His hospitality was unbounded, and his genial and cordial welcome will long be remembered by myself and all who accompanied me. The following is a list of officers who went with me to Seoul:

Captain Matthews, Lieutenants West, Mason, and Wadhams, Captain Mannix, Lieutenant Badger, Passed Assistant Engineer Denig, Ensign Hoogewerff, Assistant Surgeon Norton, Ensign Shoemaker, and Naval Cadet Dodd, of the *Brooklyn;* and Lieutenant-Commander Bicknell, Passed Assistant Paymaster Smith, First Lieutenant of Marines Wainwright, and Ensign Poundstone, of the *Essex.*

I left the *Essex* at Chemulpo, Corea, to look after American interests.

I am, sir, etc.,

R. CHANDLER,
Rear-Admiral, U. S. Navy.

No. 297.

Mr. Dinsmore to Mr. Bayard.

[Extract.]

No. 71.] LEGATION OF THE UNITED STATES,

Seoul, Corea, November 11, 1887. (Received December 22.)

SIR: As reported to you in my dispatch of October 15, 1887 (No. 63), Hon. O. N. Denny, vice-president of the Corean home office and foreign adviser to the King, left Seoul some days before that date for Tientsin, the place of the Viceroy Li Hung Chang's official residence. He returned after an absence of some two weeks, and shortly after his arrival in Seoul I was invited, with Mr. Woeber, the Russian chargé d'affaires, by Mr. Denny to an interview with him upon the subject of the missions which His Majesty the King of Corea has undertaken to establish in the United States and in Europe. At this interview Mr. Denny kindly gave us a history of his conference with the Viceroy Li, at Tientsin, upon the subject of the missions already referred to, as well as the proposed opening of a port by the Government of Corea at Pyong An, in the north of Corea, which is greatly needed to develop and enlarge the commerce of the country and prevent the extensive smuggling that is practiced in that part of the Kingdom, principally by Chinese.

The position of the viceroy in behalf of China and of the Tsung-li Yamên as expressed by him is substantially as I have reported to you hitherto, namely, that China's permission should first have been sought and obtained.

In this connection I have the honor to inclose a translation of a communication made by Yuan Sü Kwai on the 21st ultimo to the Corean foreign office, setting forth the language of a telegram received by him from the viceroy Li Hung Chang reporting the orders telegraphed to him by the Peking Government, expressing assent to the establishment of legations abroad with ministers resident only, and upon compliance with certain supposed forms, but arguing against it.

I have the pleasure to inform you that the minister will sail from Chemulpo on the 13th instant on the U. S. S. *Omaha*, for Nagasaki, at which port he will take passage on mail steamer, *via* Yokohama, to the United States, and that he will bear credentials from His Majesty the King of Corea as envoy extraordinary and minister plenipotentiary.

I have, etc.,

HUGH A. DINSMORE.

[Inclosure in No. 71.]

Mr. Yuan Sü Kwai to the Corean Foreign Office.

SEOUL, COREA, *October* 21, 1887.

Yuan Sü Kwai makes official communication to the Corean foreign office.

On the 21st of October I received from the viceroy Li Hung Chang a telegram stating that on October 19 he had received instructions from the Imperial Government of China, saying: "The Corean Government has notified us of the circumstances of the affair, and have expressed their disposition to obey. We are very glad. As Corea has concluded treaties with foreign powers, the treaty powers have mutually the right to send ministers, so if the Coreans appoint ministers and send them they may do so. But on the other side the financial resources of Corea are not great. Her trade is not in a prosperous condition, and the needs of the country grow year by year, and thereby the country may become by and by involved. If, therefore, they are going to send ministers to foreign countries who will have but little to do, it will

be necessary to increase more and more the public expenditures; therefore if expenses are not curtailed it may happen that it may be necessary to recall them or seek to secure loans. The debts and the poverty will increase daily, and the Government may not have the means to meet its liabilities. If this news should reach foreign countries they certainly would laugh at the Corean representatives, and thereby a spot would be placed upon the honor of the country. Certainly they have not considered this.

"The King of Corea must look with confidence on China as his best protector.

"The question of appointing ministers must be carefully considered from beginning to end, and investigated with great care, and then they should decide how to proceed. With regard to the appointment of the ministers and their position the forms must be observed which apply to Corea as a dependent State.

"Li Hung Chang has already reported by telegram that Corea will act according to the regulations. At the same time Corea must address itself to Li Hung Chang in other matters which may arise in the future, to consult with him and obey his instructions, then all will be well.

"Besides the instructions I have received from the minister of ceremonies I must say myself (Li Hung Chang) that when Corea has firmly decided to send ministers, they must be ministers resident only, and in no event ministers plenipotentiary; the rank must be of diplomatic agents of the third class as laid down in international law, to show by this means the difference between Corea and China. In this way I do not object. I have told this to Mr. Denny in a personal interview that he may inform the King.

"I hope he will inform the foreign office of the question now under consideration." Of the receipt of this I now inform you, asking you to be so kind as to take it into consideration and act according to the imperial instructions.

No. 298.

Mr. Dinsmore to Mr. Bayard.

[Extract.]

No. 73.] LEGATION OF THE UNITED STATES,
Seoul, Corea, November 17, 1887. (Received January 4, 1888.)

SIR: I have the honor to inclose a translation of copy of an extract of a telegraphic message from the viceroy Li Hung Chang to Yuan Sü Kwai, the Chinese representative in Seoul.

It will be seen that in this telegram Mr. Yuan is directed to instruct the Corean Government, through the foreign office, that their representatives abroad must first present themselves to the Chinese minister and be introduced by him at the foreign office. That in all official and social assemblies the Corean "representative" shall yield precedence to the Chinese "minister;" and that upon affairs of importance touching the business of the service, the Corean "representative" shall always advise with the Chinese minister "secretly" before taking action.

In this connection I take occasion to inform you that the Corean minister to the United States sailed yesterday morning with his suite by U. S. S. *Omaha* for Nagasaki *en route* to Washington.

I have, etc.,

HUGH A. DINSMORE.

[Inclosure in No. 73.]

Telegram from his excellency Li Hung Chang to Mr. Yuan Sü Kwai, Chinese Commissioner at Seoul.

First. After arrival at his post, the Corean minister must go first to the Chinese legation and ask the Chinese minister's assistance, and call together at the foreign office. After which, he may call at his pleasure and convenience.

Second. If there should be any reception, or official assembly or dinner, or toasts drunk, or any mutual meeting, the Corean representative must take a lower place than the Chinese representative.

Third. If there happens to be any serious question, the Corean representative must consult secretly with the Chinese representative, and discuss the affair with him. This rule is absolutely required according to the rules of a vassal State. It does not concern the other Goverments, and they will not be able to know of it.

Now, this question has not yet been decided by imperial decree; but I must advise it in the spirit of our friendly relations. China and Corea must nourish a kindred feeling for each other and assist each other. Ministers being selected from Corean dignitaries, they should always show confidence and respect to each other. This should be the proper course for the Corean representative.

This you shall first communicate to the Corean foreign office, and it may hand it over to the King, who may order his proper officers to act accordingly.

No. 299.

Mr. Bayard to Mr. Dinsmore.

No. 60.] DEPARTMENT OF STATE,
Washington, January 3, 1888.

SIR: I inclose herewith a copy of the temporary regulations for the prevention of the introduction of infectious diseases at the treaty ports of Corea which has been handed to me by the German chargé d'affaires here.*

The German Government considers these regulations as on the whole acceptable, but takes exception to two of the provisions.

(1) There is no clear definition given of what is meant by the words "infectious diseases" used repeatedly in the regulations. They might literally cover various diseases, such as syphilis, which are not within the intent of the regulations. Germany suggests an additional clause defining infectious diseases as being cholera, plague, yellow fever, and small-pox, and nothing else.

(2) Disinfection of crews and passengers as provided in article 6 is not now considered of much value by the best authorities. The German chargé d'affaires suggests that this article either be omitted or else modified so as to show exactly what kind of disinfection is intended, *e. g.*, hot bath and simultaneous disinfection of clothing by steam, etc., the object being to avoid vexatious and unnecessary delays.

The criticisms of the German legation appear reasonable, and correspond nearly with the diseases which were recognized as infectious or contagious by our former National Board of Health, as published on page 480 of our Consular Regulations for 1881, the latter, however, containing typhoid fever, which in the form of ship fever might be very important. It might also be well to consider whether scarlet fever might not advantageously be added to the list.

A consultation on your part with your diplomatic colleagues and a mutual exchange of views in regard to this question might lead to an advantageous modification by the Corean Government of the regulations in question, which I should be glad to be promptly informed of, together with any opinions on the subject which you may be able to obtain.

I am, etc.,

T. F. BAYARD.

* For text of regulations see Doc. No. 482, *post*, page 668.

No. 300.

Mr. Bayard to Mr. Dinsmore.

No. 63.] DEPARTMENT OF STATE,
Washington, January 26, 1888.

SIR: Your dispatch No. 73, diplomatic series, of the 17th of November last, touching the confidential communication to you of a telegraphic message from the Viceroy Li Hung Chang to the Chinese representative at Seoul in regard to the formalities prescribed for the presentation of the new Corean minister in the United States, was received here on the 4th instant about the time the Corean minister and suite landed at San Francisco, where every courtesy was shown them by the officials of the Treasury.

Mr. Pak Chung Yang arrived in this capital on the 9th instant, and on the next day addressed me a note asking an interview to arrange for the presentation of his credentials to the President, to which I replied the same day, assenting to his wish.

On the previous day I had received from the Chinese minister a note reciting his instructions with regard to his relations with the Corean envoy, agreeing in the main with the statements of your dispatch, except that Mr. Chang Yen Hoon makes no reference whatever to the order of procedure to be observed on ceremonial occasions, but this is immaterial, inasmuch as the rule of this Department arranges diplomatic agents in the order of seniority according to the date of their formal reception.

The Chinese minister called on me the day before that agreed upon by me and the Corean envoy for the latter's visit, and made abundant expression of his satisfaction and that of his Government with the manner in which the Corean minister had been received by us. He indicated no desire or intention whatever to control or interfere with the Corean envoy's action or official reception here, excepting by the implication of the tender of the thanks of China for courtesy toward what she claims to be her vassal.

Therefore as the United States have no privity with the inter-relations of China and Corea, we shall treat both as separate governments customarily represented here by their respective and independent agents.

Upon the appointed day, Mr. Pak Chung Yang, with his secretaries and suite, was received by me at this Department and the delivery of his credentials arranged for the 17th instant, when, at 11 o'clock, the Corean envoy was presented by me to the President, and the customary ceremonial addresses were made.

I inclose for your information copies of the correspondence* on the subject exchanged with the Corean and Chinese envoys, as well as of the address of the Corean minister and the President's reply, adding a printed copy of the recently issued diplomatic list of this Department, showing the relative position of Mr. Pak with regard to precedence.

A diplomatic dinner was given by the President on the 19th instant, after the Corean minister's presentation, but as the invitations had been issued some time before his arrival in the United States, Mr. Pak's name was necessarily omitted. I mention this for your information merely, so that in the event of any reference being made to this omission by the Corean foreign office in conversation with you, you may understand that no possible significance can attach to the fact.

I am, etc.,

T. F. BAYARD.

*See Docs. Nos. 248, 249, 309, 310, pp. 380, 381, 453.

[Inclosure 1 in No. 63.—Translation.]

Address made by Mr. Pak Chung Yang on presenting his credentials to the President.

I, Pak Chung Yang, the appointed minister plenipotentiary of Great Chosen (Corea), now, for the first time, see face to face the ruler of the great United States, and deliver to him in person the credentials which I bring by order of my king, after which I hope to reside at this capital to promote friendly and commercial relations.

I hope that our two peoples may come closer together in everlasting friendship and enduring peace.

All this I present to the great ruler of the United States, and wishing him prosperity and everincreasing greatness, I bow.

[Inclosure 2 in No. 63.]

Reply of the President to the address of Mr. Pak Chung Yang, Corean minister, on the occasion of presenting his credentials, January 17, 1888.

Mr. MINISTER: It gives me pleasure to receive the credentials you bear from His Majesty the King of Great Chosen, as the Corean minister plenipotentiary near the Government of the United States.

As the first among governments organized under modern representative systems to enter into treaty relations with Corea, the Government of the United States is gratified to see the friendly intercourse desired by both now fully confirmed by the establishment of the mutual diplomatic intercourse provided for by the treaty. Our efforts will not be wanting, Mr. Minister, to strengthen the ties of friendship and to develop relations beneficial to both countries.

As the worthy representative of a friendly nation I bid you, Mr. Minister, a cordial welcome to this capital, where I trust you may find health and comfort in your residence, and be enabled to render lasting service to both countries.

No. 301.

Mr. Bayard to Mr. Dinsmore.

No. 66.] DEPARTMENT OF STATE,
Washington, March 20, 1888.

SIR: I transmit for your information a copy* of a dispatch from the United States minister at Peking, No. 551, of January 21, 1888, covering a translation of a letter from the King of Corea to the Viceroy Li Hung Chang, which appeared in the Shih pao, a Chinese paper, published at Tientsin, January 13 last. This letter refers to the diplomatic representatives lately sent abroad by Corea and the vassalage of Corea to China.

I am, etc.,

T. F. BAYARD.

No. 302.

Mr. Dinsmore to Mr. Bayard.

[Extract.]

No. 105.] LEGATION OF THE UNITED STATES,
Seoul, Corea, April 21, 1888. (Received June 4.)

SIR: Mr. Rockhill, in his No. 58 of February 5, 1887, called the attention of the Department of State to the efforts on the part of the mis-

* For inclosure see Doc. No. 166, *ante*, p. 248.

sionaries in Corea in the prosecution of evangelical work. The matter is of growing importance.

At various times I have gently remonstrated against imprudence and called attention to the danger of injury to the cause they seek to promote from an exhibition of premature zeal.

My admonitions have been kindly and respectfully received by these very worthy people.

In the beginning assemblies for religious worship were only held for the foreign residents, but attended more or less by Coreans without exciting objection from the authorities; now prayer meetings are held for the natives and, as I infer, the services conducted in the Corean language.

Moreover, occasional journeys are made into remote parts of the country, upon passports, with a view, as is now confessed, of religious teaching and administering baptism and other rites. The natives show a high appreciation of the benefits resulting from schools and hospitals, and with the exercise of patience and regard for the laws and wishes of the people on the part of those engaged in them I think they will furnish a sure avenue to religious freedom.

The Methodist mission have a school which is doing excellent work. Although a mission school and entirely independent of government patronage, it has had a name bestowed upon it by the Government in token of its recognition.

For the purposes of this school a large and handsome building, occupying a sightly eminence and built after the western style of architecture, has been erected at an expenditure of several thousand dollars. The Coreans watched its progress of construction with great interest and with anxiety. I was frequently asked if the building was intended for a church.

I have been approached to know if the foreign residents would be authorized in erecting a building purely for a house of worship avowedly for the use only of foreigners. If our people have a right to build churches it must be derived by virtue of "the most favored nation" clause of our treaty, from the provision in the English treaty, and perhaps the German and Russian granting "free exercise of their religion." The subjects of neither of these powers have as yet undertaken the building of houses of public worship and the opening of Seoul (Han Yang) to foreign commerce is liable upon the happening of a future contingency to be suspended or rendered inoperative.

The matters herein presented will doubtless have discussion very soon between the Corean and French authorities.

The French missionaries have purchased elevated ground overlooking the palace and in close proximity to an old temple, and are proceeding to erect a building, it is said, for school and religious uses. Because of the two facts mentioned in connection with the location, the Coreans are greatly exercised and have protested against the occupation of the ground. For two months the matter has been under discussion and the King has offered, if the missionaries will recede from their purpose, that he will refund the money they have paid for the lots and present them with other ground, to be selected by themselves in the city without price. All overtures, however, have been repulsed thus far and the work is still in progress.

The Coreans look anxiously to the arrival of Monsieur Colin de Plancy, the French representative, who is expected to arrive in June next, for an amicable settlement of the affair.

I have, etc.,

HUGH A. DINSMORE.

No. 303.

Mr. Dinsmore to Mr. Bayard.

[Extract.]

No. 106.] LEGATION OF THE UNITED STATES,
Seoul, Corea, April 28, 1888. (Received June 4.)

SIR: I have the honor to transmit herewith, with translation, a copy of a note received from the foreign office on the 25th instant informing me of the knowledge of the Corean Government that Americans employed as teachers in the schools are engaged in evangelical work not only in the schools but amongst the people throughout the country as well, protesting against it, and requesting my official interference to prevent it.

It is claimed that schools and religious teaching are not authorized by the treaty, and the Government claims the right to restrict schools to such as may be sanctioned by it.

It is my opinion that there is no desire to interfere with the schools already established further than to prevent the inculcation of the Christian religion. In this connection I would respectfully call attention to the French Corean treaty, in which the right to study and teach laws, arts, and sciences is accorded by the latter Government. (I have not a copy of the treaty in the legation.)

In my reply to the note from the Corean foreign office I wrote that I would exercise my fullest influence and authority to effect an observance of the rights of the Corean Government on the part of our citizens and to inspire them with respectful consideration of its wishes. (A copy of my note is inclosed.)

Mr. Appenzeller and Mr. Underwood, of the Methodist and Presbyterian missions, respectively, having left Seoul some days before for the north of Corea with the purpose of evangelical work, I sent them a note advising them of the correspondence herein reported and requested that they would accede to the Corean Government's demands at least until such time as their right to engage in the work of Christianizing the natives shall appear established. My note was accompanied by requests from their respective boards for their return to Seoul.

I have, etc.,

HUGH A. DINSMORE.

[Inclosure 1 in No. 106.—Translation.]

Mr. Cho Pyong Sik to Mr. Dinsmore.

FOREIGN OFFICE,
April 24, 1888.

Cho Pyong Sik, President of His Corean Majesty's foreign office, makes communication to the American minister.

The Corean Government understands perfectly well that the teachers staying in Seoul are teaching the Christian religion in the schools, and spreading the same over His Majesty's Government and imparting it to His Majesty's people. Teaching religion and opening schools of any kind are not authorized by the treaty, therefore we forbid severely any school whatever except it be authorized by our Government, and we will not allow religion taught to our people.

Will your excellency kindly advise the American citizens, who deliver their religion, to consent to what our Government demands, that there may be no trouble.

[Inclosure 2 in No. 106.]

Mr. Dinsmore to Mr. Cho Pyong Sik.

LEGATION OF THE UNITED STATES,
Seoul, Corea, April 25, 1888.

YOUR EXCELLENCY: I have the honor to acknowledge receipt of your excellency's dispatch concerning the teaching of the Christian religion by Americans in Corea, and I have carefully considered its contents.

Before receiving your dispatch I have at different times talked with our people and have enjoined upon them a respectful consideration of the wishes of His Majesty, the King, and of the laws and established customs of His Majesty's country.

I beg your excellency to be assured that I will exercise my fullest influence and authority to effect upon the part of American residents a careful observance of the rights of the Corean Government under the treaty and to restrict their conduct to the exercise of privileges and rights granted by its provisions.

I have referred the subject treated of in your excellency's dispatch to the consideration of my Government.

I have the honor to be your excellency's obedient servant,

HUGH A. DINSMORE.

No. 304.

Mr. Bayard to Mr. Dinsmore.

No. 71.] DEPARTMENT OF STATE,
Washington, June 15, 1888.

SIR: Your dispatches Nos. 105 and 106, diplomatic series, dated the 21st and 28th of April, respectively, have been received and your statements concerning the tendency of foreign missionary organizations in Corea to extend their operations into the interior and to claim increasing privileges in the way of public worship and teaching, have been read with much interest.

I am generally disposed to approve your cautious intimations to the missionaries discouraging any aggressive attempt to enlarge the boundaries of their privileges.

In dealing with a country like Corea, where the traditional policy for centuries has been the exclusion of all foreign intercourse and influence, the change which has taken place within the last few years, and the entrance of Corea into the family of modern nations, necessarily involves large consequences. And while those who are engaged in the effort to implant new principles there are naturally animated with the desire to accomplish much for the cause they represent, yet it should be remembered that the attempt on their part to extend their privileges by acts of aggression, without due regard to treaty limitations and the feelings of the people, might tend to defeat their efforts and to raise opposition to their labors.

Since you state in your No. 106 that you have no copy of the Franco-Corean treaty, a copy in the possession of the Department has been examined for your information; and in relation to the holding of property and the exercise of religious and kindred privileges, the following passages may be quoted:

Article IV, section 2, reads as follows:

In the localities above named Frenchmen shall have the right to lease or buy grounds and houses, to erect buildings thereon, and to establish warehouses and manufactories. They shall have the liberty to practice their religion. All arrangements relative to the choice of boundaries and the regulation of the foreign concessions, as well as the sale of lands in the different ports or cities open to foreign commerce, shall be concerted between the Corean authorities and the competent French authorities.

Section 4 of the same article reads:

Frenchmen may lease or buy grounds and houses outside of the limits of the foreign concessions and within a zone of ten Corean lis beyond those limits; but the grounds so occupied shall be subject to local regulations and fiscal taxes under such conditions as the Corean authorities may deem proper to fix.

Article IX, section 2, reads as follows:

Frenchmen resorting to Corea for the purpose of there studying or teaching the written or spoken language, sciences, laws or arts, shall, in testimony of the sentiments of good friendship which animate the high contracting parties always receive aid and assistance. The Coreans resorting to France shall there enjoy the same advantages.

In the absence of knowledge of the construction put by France and Corea on these treaty stipulations and of any explicit grant therein of such rights, the Department would not be warranted in instructing you to claim as derivative from the French treaty the extended privileges of religious teaching among the natives which are sought to be exercised and against which, as indicated by its protest inclosed with your No. 106, the animosities of the Corean Government appear to be roused.

It would certainly be unfortunate for the cause which the worthy and zealous men to whom you refer seek to promote, if by indiscretion and the assertion of privileges not accorded by the treaties, and in opposition to the distinct protests of the Corean Government, they should render their well-meant efforts a ground of hostility on the part of the natives.

I am, etc.,

T. F. BAYARD.

No. 305.

Mr. Dinsmore to Mr. Bayard.

No. 115.] LEGATION OF THE UNITED STATES,
Seoul, Corea, June 25, 1888. (Received August 8.)

SIR: I have the honor to report the occurrence, within the past ten days, of serious disturbance in Seoul, which has given rise to grave apprehensions and alarm to the foreign residents. The disturbance had its beginning some weeks ago, when it was rumored among the common class of natives that young children were being stolen from their parents. The excitement continued to grow, until last week it reached a point of intensity that culminated in the killing on the streets by the populace of native men at different times and places upon a charge of being engaged in the stealing of children. The accusation took form also involving foreigners, it being declared by the people that the children were being stolen and sold to foreigners to be eaten by them and converted into medicine and material to be used in the making of photographs. In all, it is said, seven men have been killed. We know of some certainly; at least one was seen by reliable foreigners lying on the street mutilated and dead, where he had been slain by the mob.

Among the killed there were doubtless innocent persons, as it has been definitely ascertained that innocent people were attacked, carrying their own children in their arms.

The most absurd and unreasonable stories were circulated, supported, it seems, by persons who claimed to be eye-witnesses of boiling of children in the houses of foreigners. It was declared that the schools of

the American missionaries were mere agencies for procuring children for the purposes above mentioned.

The accusations seemed to be chiefly against the American missionaries and the Japanese generally. On Monday of last week (June 18), I learned from various sources, apparently reliable, that threats were being made of an attack on "Chong Tong," the locality in which the Americans reside and the legation is situated.

The natives employed by our residents seemed greatly alarmed, in some instances refusing to go upon the streets and in others declaring their intention to quit their service, as it was said employers and servants were to be killed alike.

Feeling that the circumstances were of sufficiently serious character to justify decided action, I telegraphed to Commander T. F. Jewell, commanding the U. S. S. *Essex*, then in port at Chemulpo, on Tuesday (June 19), to send a detachment of twenty men for the protection of our people, at the same time sending by courier an explanation in writing to reach him before the departure of the troops. On Wednesday morning (June 20), at 10 o'clock, in compliance with with my request, a company consisting of three officers, twelve men, and thirteen marines, Lieut. C. D. Galloway, commanding, arrived quietly at the legation having made a night march from Chemulpo in twelve hours; similar detachments were sent from the Russian corvette *Bobre*, and the French gun-boat *Aspic* upon requests of Mr. Woeber and Monsieur Colin de Plancy, respectively.

As was anticipated by me the arrival of the forces has had the most salutary effect, the excitement having begun immediately to subside until at this time comparative quiet prevails.

The coming of the troops seems to have met with the full approval of the Corean Government. His Majesty the King sent a messenger to me to commend my action as timely and judicious.

At present there is a public examination of students gathered in the city from all parts of the country contesting for degrees, and I think it best to retain the guard until these people have returned to their homes, when Lieutenant Galloway will return with his command to his vessel.

During the disturbance I was in constant communication with the foreign office and with my colleagues. Not having time to make a full report by the present mail I reserve a detailed account to be forwarded hereafter.

At present there seems to be no ground for further alarm.

I have, etc.,

HUGH A. DINSMORE.

No. 306.

[Extract.]

Mr. Dinsmore to Mr. Bayard.

No. 116.] LEGATION OF THE UNITED STATES,
Seoul, Corea, July 1, 1888. (Received August 20.)

SIR: For further information with regard to the recent critical disturbance in Seoul, reported in my No. 115, dated June 25, I have the honor to state that on Friday, the 29th instant, at 4 o'clock, Lieutenant C. D. Galloway, U. S. Navy, left this legation with the force under his command to return to the United States steamer *Essex*, at Chemulpo,

there appearing to exist no further necessity for their presence. The forces sent from the French and Russian vessels have also returned.

I beg to make favorable mention of the cheerful and energetic promptness with which Commander Jewell and the officers of his command responded to the request of the legation for necessary assistance and of the perfect deportment of the men during the whole period of their landing.

I am aware of the Department's objections to the landing of a naval force ordinarily, and was reluctant to ask it without express permission, but the emergency in the situation I have reported seemed to fully justify it and not to admit of the delay necessary to receive instructions by cable.

No objection has been made by the Corean Government and I am firmly convinced that much good has resulted which will extend beyond the present time. Having been informed of portentous threats against our people made by the populace, I addressed a communication on the 18th ultimo to the president of the foreign office, of which I inclose a copy, urging the necessity for action on the part of the Govenment to allay the excitement and remove the unjust suspicions against foreigners, and suggested the publication of a proclamation asserting the falsity of the rumors. On the following night, at 12 o'clock, I received a short note in reply submitting a proclamation proposed for publication.

Its terms were such as would tend to increase rather than cause a subsidence of the disorder.

On the 19th, by common consent, all the foreign representatives except Mr. Yuan Sü Kwai, the representative of China, who had been ill since the beginning of the excitement, met at this legation and formulated such a proclamation as seemed required by the situation, and in a joint note to the foreign office respectfully submitted it for publication, if approved. On that night it was posted on the city gates and in other public places. It was first read by the people on Wednesday morning, the date of the arrival of the different naval detachments, and doubtless produced a good effect. A copy of this proclamation, with English translation, is inclosed.

His Majesty the King also caused to be published, over the royal seal, a very practical and effective proclamation denying that foreigners had any participancy in the taking of children, and offering liberal rewards for the capture and conviction by satisfactory evidence of the kidnapers; but upon the condition that he would impose a fine equal in amount to the reward offered against any person causing an arrest without evidence.

It is generally believed that innocent persons were killed by the mob and that if abduction of children was practiced at all the facts were greatly exaggerated.

The incidents of the affair are identical with those precedent to the massacre of foreigners at Tientsin, China, in June, 1870, in which the French consul and more than twenty foreign residents were murdered. Thursday, the 21st ultimo, was the anniversary of the Tientsin massacre. On Tuesday, the 19th, the excitement reached its highest point accompanied by threats of attacks on foreigners and a disposition of panic on the part of natives in the service of our residents. The marines left Chemulpo in the evening of this day, arriving here the next morning as heretofore reported.

The general disposition of the native masses towards foreigners as manifested by their universal respect and kindness in the past is wholly inconsistent with the recent events. Our people have traveled in the

interior of the kingdom singly and in small parties and have been invariably treated with kindness and hospitality.

We go through the city at all hours of the day or night, frequently unattended and without hesitation.

I have, myself, in the daytime frequently gone on foot and without an attendant into the remotest and most unfrequented quarters of the city and have never received the slightest indignity, but on the contrary kindness and cheerful respect. There is still a feeling of ancient origin against the Japanese, and the inhabitants of the interior, unfamiliar with Western people, sometimes mistake them for Japanese. It was that confusion which caused the attack upon and pursuit of Lieutenant Foulke in 1884. In that affair only the Coreans, Chinese, and Japanese were involved. There were no accusations against Americans nor Europeans.

Quiet seems now to be fully restored. The U. S. S. *Essex* sails to-day from Chemulpo, leaving the U. S. S. *Juniata* on duty there.

I have the honor, etc.,

HUGH A. DINSMORE.

[Inclosure 1 in No. 116.—Extract.]

Mr. Dinsmore to Mr. Cho Pyong Sik.

No. 71, F. O.] LEGATION OF THE UNITED STATES,
Seoul, Corea, June 18, 1888.

YOUR EXCELLENCY: I would respectfully call your attention to the necessity for the Corean Government to take some prompt action to quiet the excitement that is constantly growing in Seoul based upon irresponsible and false rumors about the kidnapping of children by foreigners.

The lives of our people are endangered by these false reports, and great trouble may ensue both to foreigners and to the Corean Government.

Your excellency and all intelligent Coreans must certainly know that there is no truth in the rumors, so far as they relate to foreigners. Therefore I would respectfully suggest that a proclamation should be issued by the Government of Corea, sealed with the seal of the highest office, and posted in the public places throughout the city telling the people that the rumors are false.

If your excellency will attend to this matter much trouble may be prevented.

I have the honor to be, etc.,

HUGH A. DINSMORE

[Inclosure 2 in No. 116.—Translation.]

PROCLAMATION ISSUED BY THE COREAN GOVERNMENT.

Of late certain evil-disposed persons have, to serve their own base purposes, been circulating rumors to the effect that Corean children are being stolen and sold to foreigners, to be eaten by them.

These rumors are false and absurd in the extreme. Foreigners have now been living in our midst for five years, and have always been on friendly terms with our people. How is it that now we first hear them charged with wicked practices?

In consequence of these rumors being believed by ignorant people, several persons have been killed on the streets on suspicion of being kidnappers.

This plan of taking upon yourselves to attack people in the streets is foolish and wicked. It endangers the lives of the innocent. If children are stolen, the Government will punish the kidnappers, who (when caught) should be brought before this office (or the board of punishments) for examination. Now, this proclamation is issued to warn the people against believing or repeating these false reports, and also to let them know that should there be any further cases of attacking persons on the street on these baseless suspicions, those implicated in such attacks will be immediately seized and severely dealt with in a summary manner; as also will any persons hereafter found spreading such false and baseless rumors.

No. 307.

Mr. Dinsmore to Mr. Bayard.

No. 124.] LEGATION OF THE UNITED STATES,
Seoul, Corea, July 18, 1888. (Received August 29.)

SIR: I have the honor to inform you that there is now telegraphic communication between Seoul and Fusan, in Corea, by a wire just erected under the direction and control of the Corean Government.

There are three intermediate stations between Seoul and Fusan, the length of the route being about 400 miles. The rate fixed for transmission of messages between the termini of the line is 22 sen per English word.

The completion of this line gives us direct communication by connection with the cable from Fusan, and renders us somewhat independent of the Chinese company. The new line is wholly under the control of and operated by the Coreans.

The operators have been qualified for the service by a long and thorough course of training in Seoul under a Corean official who received his instruction in Japan. The construction of the line was under the supervision of Mr. C. E. Halifax, an Englishman of some experience in telegraphy.

I have the honor to be, etc.,

HUGH A. DINSMORE.

No. 308.

Mr. Bayard to Mr. Dinsmore.

No. 78.] DEPARTMENT OF STATE,
Washington, August 14, 1888.

SIR: I have received your dispatch No. 115 of June 25 last, relative to the recent disturbance in Seôul.

In the light of your report, and the very full account of the occurrences received from the naval officers in command at Chemulpo, and furnished to me by the Secretary of the Navy, the Department is gratified to express commendation of your precautions and appreciation of the prompt assistance rendered by the Navy, which it is not doubted contributed to deprive the incident of the threatening gravity it at first assumed.

I am, etc.,

T. F. BAYARD.

CORRESPONDENCE WITH THE LEGATION OF COREA AT WASHINGTON.

No. 309.

Mr. Pak Chung Yang to Mr. Bayard.

[Translation.]

WASHINGTON, *January* 10, 1888. (Received January 10.)

SIR: I have the honor to inform you that I have been appointed His Corean Majesty's envoy extraordinary and minister plenipotentiary, and that I am prepared to enter upon the discharge of my duties as soon as it may please the President to grant me an audience and receive my credentials. I have, therefore, the honor to solicit an interview with you for that purpose.

With the assurance of my highest consideration,

I remain, etc.,

PAK CHUNG YANG.

[Inclosure.]

TRANSLATION OF CREDENTIALS.

The King of great Chosen makes a communication to the President of great America:

As I concluded the first treaty with your honorable country with which the friendship has ever since been close, and as it is some years since an embassy was sent to America, now to keep the intimacy and to strengthen and increase our commercial relations between the two countries permanent and without defect, I especially appoint the favorite and confidential official, Pak Chung Yang, who is vice-president of the home office and of second rank, to be accredited plenipotentiary to your honorable country, to reside at the capital to manage diplomatic affairs. I know that this official is loyal, careful, and discreet, and to be intrusted with this position. In view of this I have intrusted this communication to the envoy, to be presented in person.

Sincerely hoping the President will treat him with cordiality and give full faith and credit to what he may say in behalf of this court and also permit him on occasions to have interviews in order to deliver my assurances of true friendship, thereby insuring mutual happiness;

Hoping endless bliss for the President;

Beginning of the present dynasty of Cho-sun 496 years and of the present reign twenty-fourth year, eighth moon, seventh day.

Signed at the palace of King Pak in Seoul, with seal.

Countersigned by the president of the foreign office (Cho Pyong-Sik), with seal.

No. 310.

Mr. Bayard to Mr. Pak Chung Yang.

DEPARTMENT OF STATE,
Washington, January 10, 1888.

SIR: I had the honor to receive to-day by the hands of your secretary your note of this date, whereby you are pleased to inform me that you have been appointed His Corean Majesty's envoy extraordinary and minister plenipotentiary near this Government, and that you are prepared to enter upon the discharge of your duties as soon as it shall please the President to grant you an audience and receive your credentials, to which end you solicit an interview with me.

I have the honor to inform you in reply that, as I have already advised your secretary, I shall be happy to receive you on Friday next, the 18th instant, at 12 o'clock, noon, and arrange to accompany you thereafter at an early day to present your credentials to the President.

Accept, sir, etc.,

T. F. BAYARD.

No. 311.

Mr. Pak Chung Yang to Mr. Bayard.

[Translation.]

LEGATION OF COREA,
Washington, July 16, 1888. (Received July 17.)

SIR: I have the honor to inform you that I am in receipt of advices from my country to-day to the effect that the Corean telegraph line has been completed to Fusan, connecting with the Japanese cable at that point. Hereafter we shall send our telegraphic dispatches to Seoul by this route.

I have the honor to remain, etc.,

PAK CHUNG YANG.

COSTA RICA.

CORRESPONDENCE WITH THE LEGATION OF COSTA RICA AT WASHINGTON.

No. 312.

Mr. Rives to Señor Don Pedro Perez Zeledón.

DEPARTMENT OF STATE,
Washington, January 16, 1888.

SIR: I have the honor to inform you* that the President, having consented to act as arbitrator of the questions between Costa Rica and Nicaragua, presented under the convention of arbitration signed by the plenipotentiaries of these republics at Guatemala City on the 24th day of December, 1886, and having received within the periods named in the said convention the respective arguments of the parties to the arbitration, which have been duly communicated to the opposing parties as required by said convention, and further, the respective replies of each of the parties to the arguments of the other, has been pleased, under the power conferred upon him by the last paragraph of the fifth article of said convention by an act dated the 16th instant, a copy of which I have the honor to inclose herewith for your information, to delegate his powers as arbitrator aforesaid to me, to the end that the fullest examination of the point or points in dispute between the Governments of Costa Rica and Nicaragua shall be made to enable the arbitrator to reach a just and equitable conclusion in the premises and pronounce a final decision or award thereon.

Accept, etc.,

G. L. RIVES.

[Inclosure.]

Grover Cleveland, President of the United States.

Whereas, by a convention of arbitration between the Government of the Republics of Costa Rica and Nicaragua, signed at Guatemala City on the 24th day of December, 1886, the high contracting parties agreed to submit to arbitration the question pending between them in regard to the validity of the treaty of limits of 15th April, 1858, between the said Governments, together with such other points of doubtful interpretation as may require decision in the event of the said treaty of limits being found valid;

And whereas, under the terms of the said convention of arbitration, the contracting parties have solicited my acceptance of the office of arbitration to decide such question or questions, and the charge has been accepted by me;

And whereas, within the periods named in the said convention of arbitration, the parties to the arbitration have submitted to me their respective arguments, which have been duly communicated to the opposing parties as required by said convention; and, further, the respective replies of each of the parties to the argument of the other

* A similar note was addressed to the minister of Nicaragua.

have been laid before me in due time, so that all evidence and arguments necessary to a decision of the point or points in dispute are now before me as arbitrator thereof;

And whereas, by the final paragraph of the fifth article of the said convention of arbitration of December 24, 1886, it is provided that "the arbitrator may delegate his powers, provided that he does not fail to intervene directly in the pronunciaton of the final decision":

Now, therefore, I, Grover Cleveland, President of the United States of America, in the capacity of arbitrator as aforesaid between the Governments of the Republics of Costa Rica and Nicaragua, and to the end that the fullest examination of the point or points in dispute between those Governments shall be made to enable me to reach a just and equitable conclusion in the premises and pronounce a final decision or award thereon, do by this present instrument delegate my powers to George L. Rives, Assistant Secretary of State, to the extent contemplated and permitted by the aforesaid convention of arbitration, hereby enjoining the said George L. Rives to use all due circumspection and diligence in examining the arguments and evidence submitted on both sides, and to make to me, as soon as may be, a report thereon for my consideration and upon which my decision of the matter in contention may rest.

Given under my hand and the seal of the United States this 16th day of January, in the year of our Lord one thousand eight hundred and eighty-eight, and of the independence of the United States the one hundred and twelfth.

[SEAL.] GROVER CLEVELAND.

By the President:

T. F. BAYARD,
Secretary of State.

No. 313.

Mr. Bayard to Señor Don Pedro Perez Zeledón.

DEPARTMENT OF STATE,
Washington, March 22, 1888.

SIR: I have the honor to inform you* that I have received from the President, in triplicate, his award and decision in regard to the validity of the treaty of limits made between the republics of Costa Rica and Nicaragua on April 15, 1858, and the other questions submitted in connection therewith to the President's arbitration.

I am directed by the President to deliver one original of this award to the representative of the Government of Costa Rica and one original thereof to the representative of the Government of Nicaragua, in compliance with the terms of the treaty signed at Guatemala on the 24th of December, 1886. The third original will be retained in the custody of the Secretary of State of the United States.

I have the honor therefore to name the Department of State, at 12 o'clock noon of Saturday, the 24th instant, as the place and time to so deliver the President's award and decision.

I have, etc.,

T. F. BAYARD.

No. 314.

Award of the Arbitrator, the President of the United States, upon the validity of the Treaty of Limits of 1858 *between Nicaragua and Costa Rica.*

Grover Cleveland, President of the United States, to whom it shall concern, greeting:

The functions of arbitrator having been conferred upon the President of the United States by virtue of a treaty signed at the City of Guate-

*A similar note was addressed to the minister of Nicaragua.

mala on the 24th day of December, one thousand eight hundred and eighty-six, between the Republics of Costa Rica and Nicaragua, whereby it was agreed that the question pending between the contracting Governments in regard to the validity of their Treaty of Limits of the 15th day of April, one thousand eight hundred and fifty-eight, should be submitted to the arbitration of the President of the United States of America; that if the arbitrator's award should determine that the treaty was valid, the same award should also declare whether Costa Rica has the right of navigation of the river San Juan with vessels of war or of the revenue service; and that in the same manner the arbitrator should decide, in case of the validity of the treaty, upon all the other points of doubtful interpretation which either of the parties might find in the treaty and should communicate to the other party within thirty days after the exchange of the ratifications of the said treaty of the 24th day of December, one thousand eight hundred and eighty-six.

And the Republic of Nicaragua having duly communicated to the Republic of Costa Rica eleven points of doubtful interpretation found in the said Treaty of Limits of the 15th day of April, one thousand eight hundred and fifty-eight; and the Republic of Costa Rica having failed to communicate to the Republic of Nicaragua any points of doubtful interpretation found in the said last-mentioned treaty;

And both parties having duly presented their allegations and documents to the arbitrator, and having thereafter duly presented their respective answers to the allegations of the other party as provided in the treaty of the 24th day of December, one thousand eight hundred and eighty-six;

And the arbitrator pursuant to the fifth clause of said last-named treaty having delegated his powers to the honorable George L. Rives, Assistant Secretary of State, who, after examining and considering the said allegations, documents and answers, has made his report in writing thereon to the arbitrator;

Now, therefore, I, Grover Cleveland, President of the United States of America, do hereby make the following decision and award:

First. The above-mentioned Treaty of Limits, signed on the 15th day of April, one thousand eight hundred and fifty-eight, is valid.

Second. The Republic of Costa Rica under said treaty and the stipulations contained in the sixth article thereof, has not the right of navigation of the river San Juan with vessels of war; but she may navigate said river with such vessels of the revenue service as may be related to and connected with her enjoyment of the "purposes of commerce" accorded to her in said article, or as may be necessary to the protection of said enjoyment.

Third. With respect to the points of doubtful interpretation communicated as aforesaid by the Republic of Nicaragua, I decide as follows:

1. The boundary line between the Republics of Costa Rica and Nicaragua, on the Atlantic side, begins at the extremity of Punta de Castilla at the mouth of the San Juan de Nicaragua River, as they both existed on the 15th day of April, 1858. The ownership of any accretion to said Punta de Castilla is to be governed by the laws applicable to that subject.

2. The central point of the Salinas Bay is to be fixed by drawing a straight line across the mouth of the bay and determining mathematically the centre of the closed geometrical figure formed by such straight line and the shore of the bay at low-water mark.

3. By the central point of Salinas Bay is to be understood the centre of the geometrical figure formed as above stated. The limit of the bay

towards the ocean is a straight line drawn from the extremity of Punta Arranca Barba, nearly true south to the westernmost portion of the land about Punta Sacate.

4. The Republic of Costa Rica is not bound to concur with the Republic of Nicaragua in the expenses necessary to prevent the bay of San Juan del Norte from being obstructed; to keep the navigation of the river or port free and unembarrassed, or to improve it for the common benefit.

5. The Republic of Costa Rica is not bound to contribute any proportion of the expenses that may be incurred by the Republic of Nicaragua for any of the purposes above mentioned.

6. The Republic of Costa Rica can not prevent the Republic of Nicaragua from executing at her own expense and within her own territory such works of improvement, *provided* such works of improvement do not result in the occupation or flooding or damage of Costa Rica territory, or in the destruction or serious impairment of the navigation of the said river or any of its branches at any point where Costa Rica is entitled to navigate the same. The Republic of Costa Rica has the right to demand indemnification for any places belonging to her on the right bank of the river San Juan which may be occupied without her consent, and for any lands on the same bank which may be flooded or damaged in any other way in consequence of works of improvement.

7. The branch of the river San Juan known as the Colorado River must not be considered as the boundary between the Republics of Costa Rica and Nicaragua in any part of its course.

8. The right of the Republic of Costa Rica to the navigation of the river San Juan with men-of war or revenue-cutters is determined and defined in the second article of this award.

9. The Republic of Costa Rica can deny to the Republic of Nicaragua the right of deviating the waters of the river San Juan in case such deviation will result in the destruction or serious impairment of the navigation of the said river or any of its branches at any point where Costa Rica is entitled to navigate the same.

10. The Republic of Nicaragua remains bound not to make any grants for canal purposes across her territory without first asking the opinion of the Republic of Costa Rica, as provided in Article VIII of the Treaty of Limits of the 15th day of April, one thousand eight hundred and fifty-eight. The natural rights of the Republic of Costa Rica alluded to in the said stipulation are the rights which, in view of the boundaries fixed by the said Treaty of Limits, she possesses in the soil thereby recognized as belonging exclusively to her; the rights which she possesses in the harbors of San Juan del Norte and Salinas Bay; and the rights which she possesses in so much of the river San Juan as lies more than three English miles below Castillo Viejo, measuring from the exterior fortifications of the said castle as the same existed in the year 1858; and perhaps other rights not here particularly specified. These rights are to be deemed injured in any case where the territory belonging to the Republic of Costa Rica is occupied or flooded; where there is an encroachment upon either of the said harbors injurious to Costa Rica; or where there is such an obstruction or deviation of the River San Juan as to destroy or seriously impair the navigation of the said river or any of its branches at any point where Costa Rica is entitled to navigate the same.

11. The Treaty of Limits of the 15th day of April, one thousand eight hundred and fifty-eight, does not give to the Republic of Costa Rica the right to be a party to grants which Nicaragua may make for inter-

oceanic canals; though in cases where the construction of the canal will involve an injury to the natural rights of Costa Rica, her opinion or advice, as mentioned in Article VIII of the treaty, should be more than "advisory" or "consultative." It would seem in such cases that her consent is necessary, and that she may thereupon demand compensation for the concessions she is asked to make; but she is not entitled as a right to share in the profits that the Republic of Nicaragua may reserve for herself as a compensation for such favors and privileges as she, in her turn, may concede.

In testimony whereof, I have hereunto set my hand and have caused the seal of the United States to be hereunto affixed.

Done in triplicate at the city of Washington, on the twenty-second day of March, in the year one thousand eight hundred and eighty-eight, and of the Independence of the United States the one hundred and twelfth.

GROVER CLEVELAND.

By the President:
T. F. BAYARD,
Secretary of State.

[Inclosure in No. 314.]

Arbitration between the Republics of Costa Rica and Nicaragua in relation to the validity of the treaty of the 15th April, 1858.—Report to the arbitrator, the President of the United States, by George L. Rives, Assistant Secretary of State.

To the President:

SIR: On the 24th day of December, 1886, the Republics of Costa Rica and Nicaragua, by a treaty signed on that day, agreed that the question pending between the contracting Governments in regard to the validity of the "Treaty of Limits" of the 15th April, 1858, should be submitted to arbitration. It was further agreed that the arbitrator of that question should be the President of the United States of America; that within sixty days from the ratification of the treaty of arbitration the contracting Governments should solicit of the arbitrator his acceptance of the charge; that within ninety days from the notification to the parties of the acceptance of the arbitrator they should present to him their allegations and documents; that the arbitrator should communicate to the representative of each Government, within eight days after their presentation, the allegations of the opposing party, in order that the opposing party might be able to answer them within thirty days following that upon which the same should have been communicated; that the decision of the arbitrator must be pronounced within six months from the date upon which the term allowed for the answers to the allegations should have expired; and that the arbitrator might delegate his powers, provided he did not fail to intervene directly in pronouncing the final decision. It was further provided that if the arbitrator's award should determine that the treaty of the 15th April, 1858, was valid, the same award should also declare whether Costa Rica has the right of navigation of the river San Juan with vessels of war or of the revenue service; and that he should in the same manner decide, in case of the validity of the treaty, upon all the other points of doubtful interpretation which either of the parties might find in the treaty and communicate to the other within thirty days after the exchange of ratifications of the treaty of arbitration.

In accordance with the procedure thus agreed on, the Republic of Nicaragua communicated to the Republic of Costa Rica a statement of eleven points of doubtful interpretation in the treaty of the 15th April, 1858, which it proposed to submit to the decision of the arbitrator. The Government of Costa Rica did not communicate any corresponding statement, and now declares that it finds nothing in that treaty which is not perfectly clear and intelligible.

The two Governments having thereafter solicited your acceptance of the charge, you were pleased, on the 30th day of July, 1887, to signify your acceptance of it, and the representatives of both Governments were duly notified of that fact.

On the 27th day of October, 1887, both Governments presented to you their allegations and documents. These were duly communicated to the opposing parties, and on the

3d day of December, 1887, they both presented answers to the allegations of their opponents. The Spanish documents were subsequently translated and printed.

On the 16th day of January, 1888, by an instrument in writing, you were pleased to delegate your powers as arbitrator to me, in pursuance of the provisions contained in the last sentence of Article V of the Treaty of Arbitration, and to direct me to examine into the questions at issue and report my conclusions to you.

In accordance with these directions, and after a careful consideration of the allegations of the respective parties, of their answers, and of the documents submitted by each, I have now the honor to submit the following:

REPORT.

The questions to be passed upon by the arbitrator, as will be observed from the foregoing statement of the Treaty of Arbitration, are capable of being classified under two heads:

First. Whether the Treaty of Limits of the 15th of April, 1858, is valid.

Second. If valid, what is its true meaning in respect of the right of Costa Rica to navigate the river San Juan with vessels of war or the revenue service, and also in respect of the eleven points submitted for decision by the Government of Nicaragua?

If the first of these questions is decided in the negative—that is, if the Treaty of Limits is decided to be invalid—it will not be necessary to consider at all the questions under the second head.

Before discussing the grounds urged by the Government of Nicaragua, on the one hand, as proving the invalidity of the Treaty of Limits, and those urged by the Government of Costa Rica on the other, as establishing its validity, it will be essential to consider briefly the evidence submitted to show what were the recognized boundaries prior to the date of the treaty, and what were the powers of the respective Governments in regard to it. This historical inquiry, it must be remembered, is not a matter of immediate concern, nor is it directly involved in the decision of the questions now submitted to arbitration; but it is important as elucidating the nature of the principal controversy, and as showing the facts upon which the parties base their respective arguments.

Two questions, essentially distinct in their character, were in discussion in 1858 touching the boundary of the two Republics. The first of these was the question whether the district of Nicoya lawfully belonged to Costa Rica or to Nicaragua; the second, as to the true boundary line between the Republics from the Caribbean Sea to the borders of Nicoya. The evidence in regard to each of these disputed questions must be reviewed in its order.

The district of Nicoya lies on the Pacific side of the continent, and—roughly speaking—is triangular in shape, its apex lying toward the south. It is bounded on the westward by the Pacific Ocean, and on the eastward by the Gulf of Nicoya and the Rio del Salto, or Tempisque, a small stream emptying into the head of the Gulf and having its sources not far from the southerly shore of Lake Nicaragua. The northerly boundary, or base of the triangle, seems to have never been accurately fixed, and its position is a matter of dispute between the Governments of Costa Rica and Nicaragua. The argument of Nicaragua, submitted to the arbitrator, cites the authority of Don Antonia Alcedo and the historian Juarros to the effect that it is bounded by the Lake of Nicaragua on the north, which seems to imply a further boundary line running from the southern end of the lake to the Pacific Ocean. The arguments of the Costa Rican Government, on the other hand, place the northern boundary as far up as the La Flor River; and the records of land titles, and the statements of Stephens and Baily, are cited in support of this view. It is wholly unimportant, however, for the present purpose, to decide which of these opposing views is correct. It is only needful to point out that a diversity of opinion exists, and that there is no grant or agreement precisely fixing the boundaries of the district.

As to the title to the district, the facts are plainer. Nicoya, or, as it is sometimes called, Guanacaste, was undoubtedly recognized as a part of Nicaragua prior to 1826. It is asserted by Costa Rica that at times Nicoya was temporarily united with it, or placed under the control of its authorities; and some evidence is produced tending to show that such a change was made in 1573, 1593, 1692, the middle of the 18th century, and even as late as 1812. But any such connection with Costa Rica can have been but temporary, and it may be regarded as settled that at the time of the declaration of independence from Spain in September, 1821, Nicoya formed a part of Nicaragua. This condition of things seems to be distinctly recognized in the constitution of Costa Rica, adopted 21st January, 1825, in which it is stated that "the territory of the state extends at present from west to east, from the Rio del Salto, *which divides it from Nicaragua, etc.*"

It would seem, however, that about 1824 the inhabitants of Nicoya, or some of them, asked to be annexed to Costa Rica. This question was referred to the Federal Congress of Central America, the Federal Republic of Central America having been

theretofore formed and its constitution adopted 22nd November, 1824, and that body on the 9th December, 1825, passed the following decree:

"The Federal Congress of the Republic of Central America, taking into consideration, firstly, the reiterated petitions of the authorities and municipal bodies of the towns of the District of Nicoya, asking for their separation from Nicaragua and their annexation to Costa Rica; and, secondly, that the said towns and people actually annexed themselves to Costa Rica at the time in which the political troubles of Nicaragua took place; and, thirdly, the topographical situation of the same district has been pleased to decree, and does hereby decree:

"ART. 1. For the time being, and until the demarkation of the territory of each State, provided by Article VII of the Constitution is made, the District of Nicoya shall continue to be separated from Nicaragua, and annexed to Costa Rica.

"ART. 2. In consequence thereof, the District of Nicoya shall recognize its dependence upon the authorities of Costa Rica, and shall have, in the legislature of the latter, such representation as corresponds to it."

It further appears that the Government of Costa Rica thereupon took possession of Nicoya, and has been continuously in possession of it ever since; and was so at the date of the treaty of 1858.

The Government of Nicaragua, however, has not always acquiesced in the validity of this act of annexation. It has, on the contrary, on several occasions protested against it; and in its arguments, now before the arbitrator, it contends that the decree above referred to was not recognized at the time; that Nicaragua was not then represented in the Federal Congress; that the decree was, by its terms, only temporary; and that the municipalities of Nicoya as well as the legislature of Nicaragua protested against the action of Congress as soon as they were aware of it.

Here, again, it is not necessary for the arbitrator to decide the question of title. But it is clear that in 1858 Costa Rica had been continuously in possession of the district of Nicoya, under a claim of title, for more than thirty-two years.

As to the boundary line between the Rio del Salto and the Caribbean Sea, the question was purely one of fact; and it can hardly be said that any very clear or satisfactory answer was possible.

The Government of Costa Rica, in the arguments submitted to the arbitrator has presented an elaborate historical review of the two provinces of Costa Rica and Nicaragua under Spanish rule, which, it may be assumed, contains a reference to all the important documents bearing upon the question of boundaries. Passing over the history of the discovery and first settlement of this region in the early part of the XVIth century, it appears that in 1541 the Emperor Charles V decreed that the upper fifteen leagues of the San Juan River should belong to the province of Nicaragua; that the lower or remaining portion of the river should belong to the Government of Costa Rica; and that the use of the river and lake, for purposes of navigation and fishing, should be common to both provinces. In 1561, King Philip II appointed Licentiate Don Juan Cavallon to be "alcalde mayor" of the province of New Cartago and Costa Rica, describing it in the preamble of the letter of appointment as extending along the Northern Sea "up to the outlet, this being included" (*hasta el Desaguadero inclusive*). In 1573, by articles of agreement between the Spanish Crown and Diego de Artieda, who was appointed governor and captain-general of Costa Rica, the boundaries of that province were defined substantially as they continued to be down to 1821. The limits of Artieda's jurisdiction are thus defined:

"From the Northern to the Southern Sea in width; and in length, from the boundary of Nicaragua, on the side of Nicoya, right to the valleys of Chiriqui, as far as the province of Veragua on the southern side; and on the northern side, from the mouths of the outlet, which is towards Nicaragua (*desde las bocas del Desaguadero, que es á las partes de Nicaragua*), the whole tract of land as far as the province of Veragua."

No subsequent grant or decree by the Spanish Crown is cited, and, apart from some evidence of acts of possession by the respective Government, there is nothing further to define the boundaries of the two provinces.

Soon after the declaration of independence, Costa Rica and Nicaragua, then States of the Republic of Central America, adopted constitutions defining generally their respective boundaries.

The constitution of Costa Rica, adopted the 21st January, 1825, provides as follows:

"ARTICLE 15. The territory of the State extends at present from west to east, from the river del Salto, which divides it from that of Nicaragua, up to the river Chiriqui, the boundary of the Republic of Colombia; and north and south from one to the other sea, the limits being on the north [sea] the mouth of the San Juan River and the Escudo de Veraguas, and on the south [sea] the mouth of the river Alvarado and that of the Chiriqui."

Nicaragua, by the constitution adopted the 8th of April, 1826, defines her boundaries thus:

"On the east, the sea of the Antilles; on the north, the State of Honduras; on the

west, the gulf of Conchagua; on the south, the Pacific Ocean; and on the southeast the free State of Costa Rica."

These are the last declarations *ante litem motam*. It will be observed that all these documents leave the precise boundary vague and undetermined. Indeed the line to be followed between the Rio del Salto and the "mouths of the Outlet," is nowhere laid down. Nicaragua contends that a straight line from the mouth of the Rio del Salto to the mouth of the Colorado, the most southerly of the three mouths of the San Juan, is intended. This is met by the argument that as the Rio del Salto was the boundary, that river in its whole length, and not the mouth or any other part of it, was the dividing line; and that the San Juan River proper—the northernmost of the three channels at the mouth of that stream—formed the end of the line on the Caribbean Sea. Costa Rica further contends that the boundary line was not straight, but that it followed the course of the San Juan in its whole length and the southern shore of Lake Nicaragua; and she alleges that she was in possession of the territory up to that line—an allegation not admitted by Nicaragua.

In my judgment the evidence establishes that the boundary of Costa Rica, under the terms of the Spanish grants (leaving Nicoya out of the question), began at the head of the Gulf of Nicoya, ran northerly along the river del Salto to its source, and thence ran to the mouth of the San Juan River, at the port of San Juan del Norte—this being at the time the mouth of the principal channel or outlet of the stream. But the evidence is not sufficient to form the basis for any satisfactory judgment as to how this line was to be drawn between the source of the del Salto and the mouth of the San Juan. I perceive no reason for thinking that it should have been a straight line.

No decision of this question is, however, necessary; for it is only important, for present purposes, to point out that no precise line of demarkation can be found in any of the earlier documents. Nor is this surprising in view of the fact, to be inferred from the evidence, that the region through which the line ran was a rough, densely wooded and thinly settled country, where no need was felt of any exact delimitation in the days of the Spanish dominion.

But with the establishment of the Federal Republic, and, still more, with its dissolution, the questions of boundary began to assume importance.

The Federal Constitution seems to have provided by its Article VII for the demarkation of each State; but nevertheless nothing was done towards the establishment of the line between Costa Rica and Nicaragua.

In 1838 Costa Rica seems to have urged upon Nicaragua—then assuming the rank of an independent State upon her withdrawal from the federation—a desire for a recognition of the annexation of Nicoya. In 1846, 1848, and 1852 other fruitless negotiations were undertaken with a view to settling the boundary; and in 1858, when the Treaty of Limits was signed, the question, in one form or another, had been before the two Governments for at least twenty years.

That the documentary evidence was slight and unsatisfactory, has been already shown; and that Costa Rica had for nearly the same period of twenty years laid claim to more territory than she obtained under the Treaty of Limits, fully appears from her decree of "Basis and Guaranties" of the 8th March, 1841, which asserts as the boundaries of Costa Rica the line of the river La Flor, the shore of Lake Nicaragua, and the river San Juan.

I now proceed to state the history of the negotiations which resulted in the treaty in question, and of the executive and legislative acts which are relied on by Costa Rica as constituting a sufficient ratification.

The long and bitter struggle in which Nicaragua and other Central American States had been involved, and of which the part played by Walker and the filibusters was the most notorious incident, came to an end in 1857. The Republic of Costa Rica had taken part in that struggle, and her case states as a fact that at the close of the contest the Costa Rican troops held military positions on both sides of the San Juan. The argument of Nicaragua seems to imply that such possession was not taken until after the close of the war; but the fact itself is not in dispute. It was regarded by Nicaragua at the time as constituting a *casus belli;* and Costa Rica having failed to withdraw her troops, war was declared by Nicaragua on the 25th November, 1857, although negotiations for a settlement of the difficulty still continued, but without success.

In this posture of affairs the Republic of San Salvador offered mediation through its minister Col. Don Pedro Rómulo Negrete. Owing principally, as it would seem, to Colonel Negrete's earnest efforts, the opposing Governments appointed ministers plenipotentiary, who met with the Salvadorian minister at San José de Costa Rica, and there concluded the Treaty of Limits, the validity of which is now under examination.

By that instrument the boundary line is made to begin at Punta de Castilla, at the mouth of the San Juan River; thence it follows the right or southern bank of that stream to a point 3 miles below the Castillo Viejo; thence it runs along the circum-

ference of a circle drawn round the outworks of the castle as a center, with a radius of 3 miles to a point on the western side of the castle, distant 2 miles from the river; thence parallel to the San Juan and the lake, at a distance of 2 miles therefrom to the Sapoá River; and thence in a straight line to the center of Salinas Bay on the Pacific Ocean. The treaty further provides that surveys shall be made to locate the boundary; that the Bay of San Juan del Norte and Salinas Bay shall be common to both Republics; and that Nicaragua shall have, exclusively, dominion and supreme control of the waters of the San Juan—Costa Rica having the right of free navigation for the purposes of commerce in that part of the river on which she is bounded. It was further agreed that in the event of war between Costa Rica and Nicaragua, no act of hostility was to be practiced in the port or river of San Juan, or on the Lake of Nicaragua; and the observance of this article of the treaty was guarantied by the Republic of San Salvador.

It is admitted by the parties to the present arbitration that the treaty was duly ratified by Costa Rica on the 16th April, 1858; and that it was not ratified at all by San Salvador. It is further established that there was some ratification by representatives of Nicaragua—but whether or not such ratification was sufficient is one of the points now in controversy, and it is therefore necessary to examine fully the powers and the proceedings of the Nicaraguan authorities.

The Republic of Nicaragua, as appears from the evidence, was a constitutional government of limited powers, which were defined by a written constitution. Nicaragua, as one of the States of the Central American Republic, adopted her first constitution on the 8th April, 1826. Upon the dissolution of the Federal Republic she assumed the rank of an independent nation; and in 1838 adopted a new constitution, which her representatives now contend was in full force and vigor at the time of the execution of the Treaty of Limits. The full text of the Nicaraguan constitution of 1838 is not contained in the arguments which have been laid before the arbitrator; but it sufficiently appears that power was vested in an elective President and a Congress. It also appears that by article 2 (cited in full below), the boundaries of the State were defined; and that by article 194, quoted in the argument of Nicaragua, a complicated method of amendment was provided, of which the only feature now necessary to notice is that no proposed amendment shall take effect until it has been approved by two successive legislatures.

In 1857 the necessity for a complete revision of the constitution of 1838 seems to have been generally recognized. The long and exhausting conflicts which had been waged from 1854 to 1857, and the existence, during the greater part of that time, of two hostile governments, each claiming to exercise constitutional and supreme power throughout the country, had demonstrated, to the satisfaction of the inhabitants, the importance of changes in the organic law. Accordingly a constituent assembly, with ample powers, was duly elected. The due election, and the full constituent powers of this body, are facts not disputed in the arguments now submitted on behalf of Nicaragua.

In November, 1857, the constituent assembly met, and addressed itself at once to the task of framing a new constitution for Nicaragua, as well as of legislating upon the ordinary affairs of the nation.

On the 18th of January, 1858, the previous negotiation with Costa Rica having failed, the assembly ordered new commissioners to be appointed to negotiate treaties of peace, limits, friendship, and alliance between Nicaragua and Costa Rica.

On the 5th February, 1858, a further and supplemental decree on the same subject was adopted, which is as follows:

"The constituent assembly of the Republic of Nicaragua, in use of the legislative faculties with which it is invested, decrees:

"ART. 1. For the purpose that the executive may comply with the decree of January 18 instant, the said executive is hereby amply authorized to act in the settlement of the difficulties with Costa Rica in such manner as it may deem best for the interest of both countries, and for the independence of Central America, without the necessity of ratification by the legislative power.

"ART. 2. Such treaties of limits as it may adjust shall be final, if adjusted in accordance with the bases which separately will be given to it; but, if not, they shall be subject to the ratification of the assembly."

What were the separate bases of negotiation given to the Nicaraguan Executive does not appear from any of the documents submitted to the arbitrator. But it is not distinctly asserted by the representatives of Nicaragua that such instructions were disregarded in the negotiation of the treaty, the arguments relied on to prove its invalidity resting upon entirely different grounds, which will be stated hereafter.

On the 15th April, 1858, the treaty of limits was signed by the plenipotentiaries of Costa Rica, Nicaragua, and San Salvador; and on the 26th April, 1858, ratifications were personally exchanged by the Presidents of Costa Rica and Nicaragua, who met for the purpose on Nicaraguan territory at the city of Rivas. The treaty had not

then been passed upon by the assembly, the decree of ratification being by the President alone. It is as follows:

"TOMAS MARTINEZ, the President of the Republic of Nicaragua:

"Whereas General Máximo Jerez, envoy extraordinary and minister plenipotentiary of Nicaragua to the Republic of Costa Rica, has adjusted, agreed upon, and signed, on the 15th instant, a treaty of limits, fully in accordance with the bases which, for that purpose, were transmitted to him by way of instructions; finding that said treaty is conducive to the peace and prosperity of the two countries, and reciprocally useful to both of them, and that it facilitates, by removing all obstacles that might prevent it, the mutual alliance of both countries, and their unity of action against all attempts of foreign conquest; considering that the Executive has been duly and competently authorized by legislative decree of February 26th ultimo to do everything conducive to secure the safety and independence of the Republic; and by virtue, furthermore, of the reservation of faculties spoken of in the Executive decree of the 17th instant:

"Does hereby ratify each and all of the articles of the treaty of limits, made and concluded by Don José Maria Cañas, minister plenipotentiary of the Government of Costa Rica, and Don Máximo Jerez, minister plenipotentiary of the Supreme Government of Nicaragua, signed by them on the 15th instant and ratified by the Costa Rican Government on the 16th. And the additional act of the same date is likewise ratified."

On the 28th May, 1858, thirty-two days after the ratification, and forty-three days after the signature of the treaty of limits, the following decree was passed by the constituent assembly:

"The constituent assembly of the Republic of Nicaragua, in use of the legislative powers vested in it, decrees:

"Sole Article. The treaty of limits concluded at San José on the 15th of April, instant, between General Don Máximo Jerez, minister plenipotentiary from this Republic, and General Don José Maria Cañas, minister plenipotentiary from the Republic of Costa Rica, with the intervention of Colonel Don Pedro Rómulo Negrete, minister plenipotentiary from Salvador, is hereby approved."

On the 19th August, 1858, the constituent assembly adopted the new constitution, of which it is only needful to cite the first article, viz:

"The Republic of Nicaragua is the same which was, in ancient times, called the Province of Nicaragua, and, after the independence, State of Nicaragua. Its territory is bounded on the east and northeast by the Sea of the Antilles; on the north and northwest by the State of Honduras; on the west and south by the Pacific Ocean, and on the southeast by the Republic of Costa Rica. The laws on special limits form part of the constitution."

No further formal ratification of the treaty of limits was ever had; but the arguments submitted by Costa Rica cite a number of instances in which the Government of Nicaragua, during the period between 1858 and 1870, recognized the treaty as a valid and binding instrument.

Since 1870 the Government of Nicaragua has contended that the treaty is invalid; and that view is now urged upon three distinct grounds, which are stated as follows in the argument submitted on its behalf:

"The Government of Nicaragua affirms the invalidity of the treaty of 1858, and insists that it ought not to be bound thereby, for the reason—

"*First.* That it has not received that sanction which the constitution of the state of Nicaragua requires to give effect to, and validate, a treaty of its character.

"*Second.* It has not been ratified by the Government of San Salvador, so as to give effect to the guaranties on behalf of that Government of the tenth article of the treaty.

"*Third.* That the pretended ratifications of the treaty were exchanged before the treaty had been submitted to the Congress of Nicaragua, and it was not approved by the first Congress of Nicaragua until after the expiration of the forty days provided for the exchange of ratifications in Article XII."

I shall consider each of these three reasons in order.

I.

The argument very forcibly presented on behalf of Nicaragua to establish the first ground of objection—the lack of such a sanction as was required by the constitution to give effect to, and validate, a treaty of the character of the one in question—is as follows: The constitution of 1838 was in full force on the 15th of April, 1858; that constitution fixed the boundaries of Nicaragua; the treaty of limits curtailed the boundaries so fixed by the constitution; it was therefore, "in direct and flagrant violation of the fundamental law of the state, and to have validity must receive the same formal ratification that an amendment to the constitution itself demands;" the constitution provides that an amendment adopted by one legislature in the manner

prescribed, by two-thirds vote of both houses, "shall not be considered as valid nor form part of the constitution until it has received the sanction of the next legislature;" the treaty of limits was never sanctioned by a second legislature; therefore it is not valid.

This argument, it will be perceived, rests wholly upon the fundamental assumptions that the constitution of 1838 was in force, and that it fixed the boundaries of Nicaragua. If, as a matter of fact, that constitution was not in force, or if the boundaries were not definitely fixed by its provisions, then the whole argument falls; for the treaty is then a mere treaty of limits, settling disputed boundaries, and is not one involving a cession of territory and an amendment to the constitution. It is not pretended that a treaty fixing boundaries requires, on general principles, any extraordinary sanction.

The general doctrine that in determining the validity of a treaty made in the name of a state, the fundamental laws of such state must furnish the guide for determination, has been fully and ably discussed on the part of Nicaragua, and its correctness may certainly be admitted. But it is also certain that where a treaty has been approved by a government, and an effort is subsequently made to avoid it for the lack of some formality, the burden is upon the party who alleges invalidity to show clearly that the requirements of the fundamental law have not been complied with. In my judgment, Nicaragua has failed in establishing a case under this rule.

In the first place, it may well be doubted whether the constitution of 1838 can be said to have been in full force and effect at the time of the execution of the treaty on the 15th April, 1858. The legislative power was then vested in a constituent assembly—a body, it would seem, expressly chosen for the purpose of amending the constitution in any way it saw fit. To say that such a body could not adopt a decree which in effect modified the constitution, is to deny to it the power to carry out the very objects for which it existed.

Moreover, the constitution framed by the assembly, and promulgated on the 19th August, 1858, defining the boundaries of Nicaragua, adds that "the laws on special limits form part of the constitution." If therefore the decree of the 28th May, 1858, and the other acts of the assembly, were in any respect insufficient as involving some unconstitutionality, the defect was supplied by practically embodying the treaty of limits, and the decree approving it, in the new constitution, thus giving the highest sanction possible to this legislation.

But whether or not the constitution of 1838 was in full force in April and May, 1858, I am clearly of opinion that it did not definitely fix the boundaries of the state. The power of defining absolute boundaries by a constitution is not denied. The question is merely whether the constitution of 1838 did in fact contain such a definition of the boundaries of Nicaragua as to preclude their adjustment by any ordinary treaty.

The provisions of that constitution respecting boundaries are as follows:

"ARTICLE 2. The territory of the State is the same as was formerly given to the Province of Nicaragua; its limits being on the east and northeast the Sea of the Antilles; on the north and northwest the State of Honduras; on the west and south the Pacific Ocean; and on the southeast the State of Costa Rica. *The dividing lines with the bordering States shall be marked by a law which will make a part of the constitution.*"

Thus it appears that "the dividing lines with the bordering States" were expressly not defined. It was plainly the intention to leave the constitution incomplete in this respect, though a means of completing it was provided by allowing the passage of an ordinary law by a single legislature. It is not pretended that any law marking the boundary on the side of Costa Rica was passed before the execution of the treaty of limits. The decree approving the treaty is the only attempt, so far as appears, to comply with this provision of the constitution. The statement that the boundary is "on the southeast the State of Costa Rica" defines nothing. What were the limits of Costa Rica in 1838 was a matter of dispute. No precise decision was possible, and I have already expressed my opinion that the evidence laid before the arbitrator is altogether too vague to afford grounds for any satisfactory judgment. The constitution of 1838, therefore, did not fix the boundaries of Nicaragua definitely.

These views are strengthened by a consideration of the evidence adduced on the part of Costa Rica to prove acquiescence by Nicaragua for ten or twelve years in the validity of the treaty. I do not regard such acquiescence as a substitute for ratification by a second legislature, if such had been needed. But it is strong evidence of that contemporaneous exposition which has ever been thought valuable as a guide in determining doubtful questions of interpretation.

I conclude, therefore, that the first ground of objection stated by Nicaragua is untenable.

II.

The second ground of objection urged by Nicaragua to the validity of the treaty is that it has not been ratified by the Government at San Salvador, so as to give effect to the guaranties on behalf of that Government of the *tenth* article of the treaty.

It is argued, in support of this objection, that the guaranty of the mediating government against hostilities on the river and lake was of great importance to Nicaragua; that it might well have been the controlling consideration in the mind of the negotiator of the treaty that led him to agree to the relinquishment of claims to great tracts of territory; that the failure of San Salvador to ratify this treaty took from it one of the chief considerations moving to Nicaragua; and that, the consideration never having taken effect, the treaty never became of valid or binding force. It is added that this was in effect a tripartite treaty, and unless all the parties became bound neither of them was.

In my opinion this argument is unsound. The treaty was not tripartite, but was between Costa Rica and Nicaragua only, with an independent and separable clause of guaranty as to a single feature of the arrangement on the part of San Salvador. Without the guaranty the treaty was complete as between the two principals, if they saw fit to accept it in that shape. The non-ratification by the Republic of San Salvador was known to the Government of Nicaragua when ratifications were exchanged with Costa Rica. It follows therefore that Nicaragua never lost any of the considerations which induced her to consummate, by an exchange of ratifications, the negotiations for the treaty.

The facts may be briefly recalled.

On the 15th April, 1858, the treaty of limits was signed. In form it is a convention agreed upon by the representatives of Costa Rica and Nicaragua, and declares that they having exchanged their respective powers, "which were examined by Hon. Señor Don Pedro R. Negrete, exercising the function of fraternal mediator in these negotiations," had agreed to and adjusted the terms of the treaty. The treaty itself, after reciting the desire of Costa Rica and Nicaragua for peace, fixes the boundary line between them; provides for a survey of the line, and for the common use and defense of the Bay of San Juan del Norte and Salinas Bay, and of that portion of the San Juan River on which Costa Rica borders; grants the use in common of the Punta de Castilla until Nicaragua recovers full possession of all her rights in the port of San Juan del Norte; forbids the levying of custom duties at Punta de Castilla while San Juan del Norte remains a free port; defines the jurisdiction over and right of navigation on the waters of the San Juan River; secures existing contracts of canalization or public transit made by the Government of Nicaragua and regulates the execution of future contracts; and neutralizes the port and river of San Juan and the Lake of Nicaragua in the event of war between Costa Rica and Nicaragua. Then follows this:

"ARTICLE X. The stipulation of the foregoing article (that relating to neutrality) being essentially important for the proper custody of both the port and the river against foreign aggression, which would affect the general interests of the country, the strict performance thereof is left under the special guaranty, which in the name of the mediator government its minister plenipotentiary herein present is ready to give and does hereby give in use of the faculties vested in him for that purpose by his Government."

Finally, Costa Rica and Nicaragua mutually give up all claims against each other, and "the two contracting parties" waive all claims for damages which either have against the other.

This instrument is plainly neither in form nor in substance tripartite. The "two Governments," the "two contracting parties" spoken of in the treaty, are always Costa Rica and Nicaragua, never San Salvador. San Salvador is not in form a contracting party at all. And in substance that Government is not a party to the agreement, the clause containing the guaranty being entirely separable from all the rest.

As a proposition of international law, it may be regarded as settled that a guaranty is always merely subsidiary to the principal contract.

"Le traité par lequel un état se porte garant d'un traité conclu entre deux autres puissances, est un traité accessoire destiné à assurer l'exécution du traité principal." (Bluntschli, 430 *note*, Lardy's trans.)

"La garantie peut être comprise dans les stipulations annexées au traité principal qu'on veut garantir, et devient alors une obligation accessoire." (Vattel, Droit des Gens. Ed. 1863, Liv. II, ch. 16, § 240; note by Pradier Fodéré, the editor.)

"Lorsque la garantie est destinée à assurer l'inviolabilité d'un traité, elle forme toujours une obligation et un traité accessoire (*pactum accessorium*), même quand elle ferait partie de l'acte principal." (Klüber, Droit des Gens., § 158.)

It follows that the clause of guaranty in the treaty of limits is no part of the principal agreement, and that on general principles the rest of the treaty would not stand or fall with this subsidiary or accessory contract.

The necessity for ratification by contracting powers may be fully admitted. But even conceding to it as high an importance as the execution of deeds by individuals, the failure of a guarantying State to ratify will not necessarily invalidate a treaty which the principal contracting parties have concluded by an exchange of ratifications as between themselves.

The analogy of individual deeds may serve to illustrate the point now under discussion. The case may readily be imagined of a deed between two parties as principals, with a third party as guarantor. Leases of this character are not infrequent. If such a deed were prepared by the agents of the three parties, and if the two principal parties were to sign, seal, acknowledge, and formally deliver to each other duly-executed duplicates of the deed, without waiting for the signature of the guarantor, it is too plain for argument that neither could subsequently object, and claim the right to rescind, because the deed had not been executed and delivered by the guarantor.

So in this case. The Presidents of Costa Rica and Nicaragua in person, on the 26th April, 1858, formally exchanged ratifications of the treaty, without waiting for San Salvador. The arguments now advanced by Nicaragua as establishing the invalidity of the treaty might perhaps have been urged as reasons for refusing to exchange the ratifications until San Salvador was ready to unite in the act. But the Government of Nicaragua was silent when it ought to have spoken, and so waived the objection now made. It saw fit to proceed to the exchange of ratifications without waiting for San Salvador. The treaty was complete without Article X. To all the other articles and stipulations it contained Costa Rica and Nicaragua alone might fully bind themselves. They did so, irrevocably, by a formal exchange of ratifications; and neither may now be heard to allege, as reasons for rescinding this completed treaty, and facts which existed and were known at the time of its consummation.

I conclude, therefore, that the *second* ground of objection stated by Nicaragua is untenable.

III.

The third ground of objection urged by Nicaragua to the validity of the treaty is "that the pretended ratifications of the treaty were exchanged before the treaty had been submitted to the Congress of Nicaragua, and it was not approved by the first Congress of Nicaragua until after the expiration of the forty days provided for the exchange of ratifications in Article XII."

It will be remembered that on the 5th February, 1858, the constituent assembly of Nicaragua passed a decree by which the Executive was "amply authorized" to treat with Costa Rica "without the necessity of ratification by the legislative power;" and that it was further decreed that such treaties of limits as the Executive might adjust should be final, if in accordance with certain separate instructions. Acting under this grant of power, the President of Nicaragua concluded and ratified the present treaty on the 26th April, 1858, eleven days after its signature by the plenipotentiaries, without "ratification by the legislative power." On the 28th of May, 1858, the constituent assembly adopted a decree approving the treaty; and this decree was signed by the President on the 4th June, 1858.

The argument now presented by Nicaragua is twofold, and raises two points, *first*, that the treaty is invalid because ratifications were exchanged before approval by the assembly, and, *second*, that it is invalid because such approval was given more than forty days after signature.

As to the first of these points, it would perhaps be enough to say that Nicaragua can not now seek to invalidate the treaty on any mere ground of irregularity in the order of its own proceedings. If its legislature did in fact approve the treaty that is enough for the present purpose. Whether such approval was expressed before or after the exchange of ratifications is an immaterial matter now, certainly so far as Nicaragua is concerned.

But it does not appear that there was any real irregularity in these proceedings. The full text of the Nicaraguan constitution of 1838 not being contained in the arguments submitted to the arbitrator, it is not made clear just what restrictions upon the treaty-making power that instrument imposed. Ratification by legislative authority is not always required, even in constitutional governments. The necessity for legislative ratification is not to be presumed, but must be established as a fact. Still less can there be any presumption as to the form and manner in which the legislative sanction is to be expressed. In the present instance the constituent assembly, a body of extensive powers, expressed in advance its approval of any treaty of limits that might be concluded by the Executive upon certain bases. It is not shown that the authority so given was exceeded, and it can not be said, in the absence of an express prohibition, that this mode of dealing with the subject was improper.

Again, the fact of the subsequent approval of the treaty by the assembly is satisfactory proof that that body approved not only the terms of the instrument, but also the manner in which the Executive had exercised the authority conferred by the decree of the 5th February, 1858. The time and manner of exchange of ratifications was before the assembly, and it was fully aware that the time agreed upon for exchange had passed. Its action, under these circumstances, shows that it was of the

opinion that the treaty had been legally and in due time ratified by the President, in pursuance of the special powers conferred upon him.

In any event, all irregularities would seem to have been effectually cured by this subsequent approval of the constituent assembly. *Ratihabitio retrotrahitur, et mandato equiparatur*, is a recognized maxim of municipal law; and the reasons of that rule may fairly be regarded as applying to cases like the present.

That irregularities and defects in the formalities of ratification may be supplied and made good by subsequent acquiescence in and approval of the treaty, is laid down by Heffter (Droit International, § 87 *fin.*):

"Mais il est constant qu'elle (*i. e.*, ratification) peut être suppléée par des actes équivalents, et notamment par l'exécution tacite des stipulations arrêtées."

And this opinion is cited by Pradier-Fodéré in his translation of Grotius (Vol. II, p. 270, note 1). See also Hall's International Law, page 276.

The second point—that the legislative sanction was not given until after the expiration of the forty days fixed by the treaty for the exchange of the ratifications—seems clearly untenable. Costa Rica, and not Nicaragua, might have complained of this delay. Assuming that subsequent legislative approval was needed, Costa Rica might, if it had desired to do so, have declared the negotiations at an end on the expiration of the forty days. But it was not bound to do so. It had a perfect right to waive this limitation of time. Either party to a treaty may extend the time of the other, either by express agreement or by acts indicating acquiescence. Nicaragua can not be permitted to say, as she does in effect say, in this branch of her argument, "it is true that this treaty was approved unreservedly by both executive and legislative branches of the Government; but such an approval is worthless, as it was expressed not forty but forty-three days after the signature of the treaty."

The *fact* of approval being established, the *time* of approval is immaterial, provided the other party by its acquiescence has seen fit to waive delay.

I conclude, therefore, that the *third* ground of objection stated by Nicaragua is untenable.

And having examined in detail the three reasons urged by Nicaragua for holding the treaty invalid, and finding all these reasons untenable, I conclude that the arbitrator should decide in favor of the validity of this treaty.

G. L. RIVES.

DEPARTMENT OF STATE, *March* 2, 1888.

No. 315.

Mr. Pedro Perez Z. to Mr. Bayard.

[Translation.]

LEGATION OF COSTA RICA,
Washington, March 26, 1888. (Received March 27.)

SIR: On Saturday, the 24th instant, at 12 o'clock noon, in pursuance of the intimation conveyed in your excellency's highly esteemed note of the 22d of the same month, I had the honor to present myself in person in the Department of State and to receive the copy intended for my Government of the decision pronounced by the President of the United States of America, which definitively settles the questions raised by Nicaragua with respect to the validity of the boundary treaty of April 15, 1858, between Costa Rica and Nicaragua, and the interpretation to be given to its several clauses.

On previous occasions the honor had devolved upon me of stating to your excellency and to the President through you the profound sentiment of gratitude which my Government felt, and which I personally shared in the largest possible degree, because of the goodness wherewith the Chief Magistrate of this great Republic accepted the extremely burdensome task which two Central American Republics, anxious for the avoidance of disputes, had begged him to take upon himself.

Only, in truth, a strongly accentuated sentiment of personal benevolence, and a full consciousness of the importance to the interests of

civilization of causing the system of international arbitration to become firmly rooted in the world, and especially in America, could have induced the President to add, as he did so wisely and so well, to the great and grave cares which constantly occupy his mind.

Now that the question has been disposed of, and from the horizon of the two Republics has been forever dispelled every cloud which could affect their relations, and obstruct [*obstaculizar*] their progress, the sentiment of gratitude to which I have referred increases in its intensity, and calls for renewed expression.

In the name of my country and of my Government, Mr. Secretary, I pray your excellency to be pleased to convey to the President of the United States the assurance that the benefit he has graciously conferred upon them in accepting the arbitral office which was intrusted to him by the treaty of Guatemala, of the 24th of December, 1886, between Costa Rica and Nicaragua is so great and positive that neither Costa Rica nor any other of the peoples of Central America can ever forget it; and that this sentiment of profound respect and thankfulness toward his elevated personality includes your excellency as Secretary of State, the distinguished officer who as delegate of the arbitrator assisted by his luminous report upon the matter in question, and the whole nation whereof your excellencies are worthy representatives, which by its greatness, its prudence, and the wisdom of its laws and institutions influences in a manner as efficient as it is beneficial the progress of the other peoples of America.

Be pleased, etc.,

PEDRO PEREZ Z.

No. 316.

Señor Volio to Mr. Bayard.

[Translation.]

LEGATION OF COSTA RICA,
Washington, September 19, 1888. (Received September 20.)

SIR: The newspapers of this capital publish in their numbers of yesterday and the day before the news that the Secretary of the Treasury has issued a circular to collectors of customs, in which, after stating that he has been informed by the Department of State that various lines of foreign and Costa Rican vessels plying between Costa Rica and New York, New Orleans, and other United States ports, and likewise between Costa Rica and European ports, enjoy a rebate of 5 per cent. in the payment of import duties, and also certain privileges as regards the payment of port charges, and that said rebate is not granted to United States vessels, he instructs them, in consequence, to subject cargoes of Costa Rican vessels entering United States ports to the discriminating duties established by section 2501 of the Revised Statutes, as incorporated in the act of March 3, 1883.

On the supposition that the notice published is correct, I have the honor to call your attention to the true state of the case in Costa Rica.

It is true that some navigation companies, in virtue of a special concession, enjoy a reduction of 5 per cent. in the payment of import duties on goods imported in their vessels.

By way of compensation for this, these companies agree that their vessels shall enter the ports of the Republic a certain number of times each month, that they shall carry the mails of Costa Rica to foreign

countries, and *vice versa*, and allow a number of free passages each year, the same being at the disposal of the Government.

It is thus seen that the concessions are reciprocal, and that those of the nation to the companies are not granted by way of groundless preference, but in exchange for services rendered by said companies.

The law, moreover, which authorizes the executive to conclude with the navigation companies the contracts on which is based the reduction of duties enjoyed by some of them empowers him to conclude similar agreements with any company that may desire it, and that may be willing to contract the same obligations which have been required of those with which arrangements have already been made.

In my humble opinion, the United States Government would have acted with perfect justice in adopting the measure which it has, if that of Costa Rica had granted the reduction of duties in favor of all goods imported into the Republic in all vessels of other nations, except those of the United States, or even in all vessels belonging to one particular nation, and perhaps even if, the favor being restricted to one particular company, the benefit were exclusive and gratuitous; in view, however, of the circumstances mentioned, which show that the advantages obtained by some companies are fully accessible to those of this Republic, I think that the decision of your Government has been adopted on the basis of inaccurate information.

If this is true, and if the reasons which I have had the honor to state in this communication should lead to a modification of your judgment, my Government would be much pleased to see a corresponding change made in the order of the Secretary of the Treasury to which this note has reference.

I have, etc.,

FEDERICO VOLIO.

No. 317.

Mr. Bayard to Señor Volio.

DEPARTMENT OF STATE,
Washington, September 29, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, in which you advert to the statement published in the newspapers of this capital that, in view of the fact that various lines of foreign and Costa Rican vessels enjoy in the ports of Costa Rica a rebate of 5 per cent. in customs duties and certain other exemptions not granted to vessels of the United States in those ports, the Secretary of the Treasury has instructed collectors of customs in the United States to levy upon the cargoes of Costa Rican vessels entering ports of the United States the discriminating duties provided for in section 2501 of the Revised Statutes, as incorporated in the act of March 3, 1883, in respect to cargoes imported in the vessels of countries that discriminate against vessels of the United States. Assuming this report to be correct, you question the justice of the instructions upon the following grounds:

It is admitted that certain navigation companies, by virtue of a special concession, enjoy in the ports of Costa Rica a reduction of 5 per cent. in the payment of customs duties on goods imported in their vessels.

But this is justified as not being a discrimination against vessels of

the United States, because the vessels above mentioned agree, in consideration of the reduction, to enter the ports of the Republic a certain number of times each month, to carry the mails of Costa Rica to and from foreign countries and to be at the disposal of the Government of Costa Rica, all of which together constitute a compensation for the privileges and exemptions; thus giving to the arrangement a reciprocal character, which places it outside of any treaty stipulations based upon favor. And it is further stated that the Executive of Costa Rica is authorized by law to conclude similar contracts with any company that may desire it, and that may be willing to take upon itself the same obligations as have been assumed by the companies with which arrangements have already been made.

While fully appreciating the ingenuity and force of the argument set forth in your note, I am compelled to say that this Department is not persuaded that the privileges and exemptions accorded to the lines of vessels in question do not constitute a real and substantial discrimination against vessels of the United States. Even upon the assumption, which I do not think it now necessary to discuss, that those privileges and exemptions do not violate the most favored nation clause in the treaty of commerce between the United States and Costa Rica, the discrimination is yet thought to be obnoxious to the treaties between the two countries, as well as to the act of Congress to which you have referred.

By Article VI of the treaty concluded between the United States and Costa Rica on the 10th of July, 1851, provision is made for an absolute equality of duties on any article being the growth, produce, or manufacture of the one country imported into the territories of the other country, whether the importation be in the vessels of the latter or of the exporting country. It is obvious that, by reason of the privileges and exemptions above stated, such an equality does not at present exist in the ports of Costa Rica.

It does not appear to the Department to be any answer to this objection, to say that the vessels of the United States may secure similar or the same privileges by assuming the same obligations. The stipulations of Article VI are not conditional. It could not have been contemplated by the contracting parties, in employing the unqualified language adopted by them, that either side would be at liberty at any time to suspend the operation of the convention in its own territories by exacting the assumption of such obligations as it might see fit to impose upon the citizens of the other party as a condition precedent to their further enjoyment of the guarantied equality. Still less could the contracting parties have contemplated that, in order to secure such equality, the citizens of either party could be required to agree, as is done in the arrangements now under consideration, that their vessels should be at the disposal of the other party. This is a condition which may not be regarded as onerous to the citizens of the country which exacts it; but it is not a condition to which other governments are likely to agree in order that their vessels may receive equality of treatment.

This Government is always glad to witness the prosperity of the Republics of Central America, and has sought in certain ways to ameliorate the conditions of commerce between its own and their territories; and it is regretted that it should be compelled to regard any of the means deemed by any of those Republics to be conducive to the development of its commerce and strength as a discrimination against vessels of the United States.

Accept, sir, etc.,

T. F. BAYARD.

DENMARK.

No. 318.

Mr. Bayard to Mr. Anderson.

No. 53.] DEPARTMENT OF STATE,
Washington, July 22, 1887.

SIR: Your dispatch No. 126, of the 2d ultimo,* in which you state that it is reported that the Danish Government intends to raise the test on all petroleum imported into Denmark, and in which you ask the Department to instruct you as to what course you shall pursue relative to the matter, has been received.

A needlessly severe test, which would operate against American petroleum, and in favor of the Russian product, could not fail to be regarded as an unfriendly discrimination against our commerce, and you are accordingly instructed to oppose by proper representations any such tendency on the part of the Danish Government.

In order that the Department may be prepared to act with a full understanding of the subject, I will thank you to transmit a copy of a bill relative to the matter now pending before the Danish Legislature. Upon the receipt of the document in question further instructions will be given to you relative to the subject.

I am, etc.,

T. F. BAYARD.

No. 319.

Mr. Bayard to Mr. Anderson.

No. 55.] DEPARTMENT OF STATE,
Washington, July 30, 1887.

SIR: With reference to your dispatch No. 104, of the 24th of February last,* asking the Department to instruct you in the matter of extending protection to Swiss citizens under the circulars heretofore issued by the Department, I inclose herewith a copy of a note† which I addressed on the 1st instant to Mr. Kloss, chargé d'affaires *ad interim* of Switzerland at this Capital, in which the present position of the Department on the question of Swiss protection is fully set forth. You may regard that note as containing the principles by which you are to be guided in case you shall be asked to intervene with the Danish Government on behalf of Swiss citizens.

I am, etc.,

T. F. BAYARD.

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* Not printed herewith.

† For note to Mr. Kloss, see For. Rel., 1887, page 1076.

No. 320.

Mr. Porter to Mr. Anderson.

DEPARTMENT OF STATE,
Washington, September 8, 1887.

SIR: Representations have been made to this Department, from a source deemed reliable, to the effect that Denmark is sending a great many of its ex-convicts to the United States as soon as out of prison. It is alleged that the Danish convicts are furnished with new suits and some money before they are sent over.

The Department not having had any opportunity of verifying the important statements made, I will thank you to make discreet inquiries with a view to ascertaining whether there is ground for the allegations, and make a report to the Department of the result of your inquiries.

I am, etc..

JAS. D. PORTER,
Acting Secretary.

No. 321.

Mr. Anderson to Mr. Bayard.

No. 152.] LEGATION OF THE UNITED STATES,
Copenhagen, September 13, 1887. (Received September 28.)

SIR: I have the honor to send you herewith inclosed a copy of the petroleum bill now pending in the Danish legislature, together with the Government's remarks thereon. I also inclose for your information a complete translation of these documents. Awaiting your further instructions,

I have, etc.,

R. B. ANDERSON.

[Inclosure.—Translation.]

A BILL TO REGULATE THE TRADE IN PETROLEUM, ETC.

[Introduced in the Danish legislature by the ministry of justice.]

SEC. 1. Petroleum which under the test prescribed in section 2, in an atmosphere represented by a barometer height of 760 millimeters, gives off ignitible vapors at a temperature lower than 23° Celsius, shall not be sold for use in quantities less than the minimum prescribed for its sale at wholesale.

In larger quantities it shall only be sold in packages plainly marked with the word "Explosive" in letters proportionate to the size of the package.

SEC. 2. The temperature at which petroleum first gives off ignitible vapors shall be determined by tests in the so-called "Abel's apparatus."

By a special ordinance rules will be given for the making of these tests, and a ratio fixed for the raising or lowering of the temperature spoken of in section 1, according as the barometer is below or above 760 millimeters.

SEC. 3. The provisions of section 1, second part, apply also to naphtha and benzine as well as to other products obtained from petroleum by distillation which, under the test mentioned in section 1, give off ignitible vapors at a temperature less than 23° Celsius. When sold for use in quantities less than the minimum prescribed for their sale at wholesale, their packages, besides being marked as above, shall bear in legible letters the words "Must not be brought near an open light." The provisions of this paragraph may, by special ordinance, be extended so as to include other liquid hydrocarbons.

SEC. 4. Infringements of this law or its relative ordinances are, providing heavier punishments are not administered under the provisions of the penal law, punishable

by fines of from 10 to 200 kroner, all cases of infringement to be treated as public police cases.

Persons accused of infringement of this law shall, when tests in connection with the case are to be made under police inspection, be given due notice to be present at the same.

SEC. 5. This law, which does not apply to the Faroe Islands, goes into effect three months after its publication in the "Law Tidings" (Lovtidenden).

From the same time the "law governing the trade in petroleum and other illuminating liquids" of November 12, 1870, is repealed.

Bill. Regular session, 1886–'87 (2).

GOVERNMENT'S REMARKS ON THE PRECEDING BILL.

By a law of November 26, 1870, section 1, it is ordained that petroleum and other illuminating liquids giving off ignitible vapors at a temperature lower than 40° Celsius shall, under a fine of from 20 to 200 rigsdalers, be not sold for use except in holders which, in legible letters proportionate to the holder's size, shall be marked with the word "Dangerous" (Farlig).

In conformity with this paragraph's second part, there are, by a royal ordinance of September 4, 1871 (see the proclamation of September 8, that year), given rules for the construction of that apparatus with which tests of the temperature at which petroleum and other illuminating liquids give off ignitible vapors are to be made, as are also rules for the making of such tests.

In the years which have elapsed since this law was passed, the use of petroleum as an illuminating agent has, as is well known, greatly increased.

At the same time its production has, of course, kept pace; but, inasmuch as the raw petroleum, besides the illuminating oil proper (kerosene), contains a very considerable quantity—as high as 45 per cent.—of other oils which are of a comparatively low value, attempts have been made to mix these with the illuminating oil, thus producing an article of much greater ignitibility, and therefore far more dangerous than the unadulterated oil.

As a natural consequence of this the attention of the authorities in the various countries has steadily been devoted toward the passing of such regulations as would secure consumers against these dangers, and experience has of late years led to the passage of new laws governing the trade in petroleum and similar explosive liquids in several countries, among them both of our neighbors, Germany (1882) and Sweden (1885).

Now, as the tests upon which these newer laws are based have shown that the laws in force with us do not insure sufficient security, the ministry, whose attention was called to the matter by a lecture given before the Insurance Companies' Union, required an opinion in the matter from the Polytechnic Institute, and in pursuance of the explanation and the recommendations therein made, have deemed it necessary to propose radical changes in the present legislation upon the subject, looking toward the establishment of greater security against the dangers arising from the use of petroleum and its relative oils, as well as more perfect agreement with similar legislation in our nearest neighboring countries.

The law of November 26, 1870, in fixing the "test" of petroleum at 40° C. had reference to the open apparatus then in use for testing; but later experiments have demonstrated that no open apparatus can give sufficiently reliable results, and least of all the one there authorized.

This tester far from satisfies the demands made upon it to-day, (1) because it does not give results which agree with each other, inasmuch as tests with the same oil can often vary as much as 3° C., and even this exactness can only be attained after considerable experience; (2) because the law fixes 40° as the lowest limit for the ignition of the vapors, while oil that scarcely satisfies tests which in reality demonstrate a safe article shows a temperature of 53°, so that a dealer whose object was alone his pecuniary advantage might, without breach of law, import an oil of 13° lower test, which in use would prove extremely dangerous. This latter defect might easily be remedied administratively by simply ordering a few minor changes in the dimensions of the tester's various parts, but the first difficulty can only be removed by ordering the tests to be made in a closed apparatus.

This, however, can not be accomplished unless a change be made in the legal test temperature, which in such case must be set considerably lower (21°–23° Celsius), and the ministry of justice has therefore, as was also advised by the Polytechnic Institute, deemed it most advisable to introduce a bill to alter the law, the more as such a step is indicated by the wish, above all, to seek the exclusion of dangerous petroleum from the retail trade, and thus from daily use.

Thus the present bill has been prepared. While ordering that tests shall be made in a certain closed apparatus it fixes the test at 23° Celsius.

In this connection it is to be remarked that the test is not fixed at the same point

in the various countries. In Germany it is 21° C.; it is 22° in Sweden, and about 23° in England.

In Germany, however, there seems to be great dissatisfaction with the too low limit, inasmuch as rather poor oil can stand the test, and a movement has been set on foot, seconded by the Polytechnic Institute, to have the test raised to 23°.

As regards the testing apparatus which it is proposed to introduce, the so-called "Abel's" apparatus, it is that which is commonly regarded as the most exact and best, and is authorized by law, both in Germany and Sweden, as well as being used in the United States for testing all oil destined for the English market. There can therefore, in the opinion of the ministry, be no doubt as to the advisability of choosing it.

True, it is somewhat dearer than the Danish tester now in use; but this fact, it would seem, should prove no hinderance to its acceptance, as it is more especially designed for use in the official control where experts are appointed. For private use much cheaper apparatus might be procured, which could be used, some directly on their own merits (Doxrud's apparatus), and some after once for all having been compared with Abel's. That more detailed rules for the use of the authorized apparatus, and among them provisions for changes in the test temperature, according as the barometer varies, should be given by special ordinance, will, it is to be presumed, be deemed natural, and fully coincides with the institutions of Germany and Sweden.

Besides the already-mentioned regulations as to petroleum temperature test, the bill contains, as will be noticed, a prohibition of the sale at retail of petroleum, which does not satisfy the provisions of the bill.

The law of November 26, 1870, allowed, as is known, the sale at retail of such petroleum, providing its holders were marked with the word "Dangerous" (Farlig). The ministry supposes, however, that the uses which can be made of such explosive petroleum in the arts are only of such nature that the act of forcing its users to buy their supplies at wholesale can not be productive of any inconvenience, and by thus entirely excluding this product from the retail trade an advantage is undeniably gained in a much stronger guaranty that it will not be purposely or carelessly used for illuminating purposes than if its sale at retail were allowed, even under limited conditions. Still it has been deemed most advisable to retain the above-mentioned rule as to the marking of the packages of such oil when sold at wholesale. In addition, section 3 of the bill contains provisions as to the trade in naphtha, benzine, and similar products obtained by the distillation of raw petroleum.

The reason for these liquids not being included under the same rules as petroleum, as is the case in the law of November 12, 1870, is that they naturally give off ignitible vapors at a temperature far below 23° Celsius, and at the same time, although only to a small degree used as illuminating agents, they have such varied uses in the household as would render it impossible to exclude them from the retail trade.

It is necessary therefore to limit restrictions in this regard to the simple maintenance of the provisions of the law of November 12, 1870, *i. e.*, that all packages of such liquids should bear a warning label.

The other provisions of the bill, which, in the main, are the same as those contained in the law of November 12, 1870, need, it is believed, no explanation.

No. 322.

Mr. Anderson to Mr. Bayard.

[Extract.]

No. 156.] LEGATION OF THE UNITED STATES,
Copenhagen, October 12, 1887. (Received October 26.)

SIR: Last Thursday I was informed of a movement on the part of the German Government, which seems to be the beginning of an attempt on the part of Germany to influence or compel Denmark to exclude American pork. The fact is, that much American pork is at present imported into Denmark where, after its arrival, it is repacked and shipped to Germany as a Danish product. A few days ago representations were made to the Danish Government through the German minister in Copenhagen that several cases of trichinosis in Hamburg had

been traced to the eating of pork imported from Denmark and claimed to have been an American article. The German Government desires to know whether American pork is admitted in Denmark. Thus the matter rests for the present, but I have the best reason to believe that the intention is to request Denmark to exclude American pork. I shall not fail to report any further developments. While reports of trichinosis are frequent from Germany, I am able to state that not a single case has been known in Denmark since my arrival here, two and a half years ago.

But in Denmark the pork is thoroughly cooked before it is eaten, while the Germans eat it raw.

I have, etc.,

R. B. ANDERSON.

No. 323.

Mr. Anderson to Mr. Bayard.

[Extract.]

No. 159.] LEGATION OF THE UNITED STATES,
Copenhagen, October 18, 1887. (Received November 2.)

SIR: The representations to the Department in regard to Denmark's sending ex convicts to the United States, and the articles in the American newspapers seem to be based on an article which appeared last spring in the Danish "Morgenbladet." It was stated that a counterfeiter, by name Riemenschneider, had been released from prison on the condition that he should go to the United States; that he had been sent by one of the Thingvalla ships, and that the ship's officers had been instructed not to let him go ashore before they reached New York. I at once made careful inquiry, both at the steam-ship office and everywhere else where I thought information might be obtained, and according to the best information I could get, Riemenschneider had taken passage by an English steamer for Scotland. I had no doubt in my own mind that he had gone to America, but I saw no way of stopping him, especially as he traveled under an assumed name. The Danish Government sometimes pardons convicts on the condition that they leave the country, but it is left for the criminal himself to determine where to go. He may go to Germany, England, Australia, South America, Canada, the United States, or to any other crountry. I think this manner of pardoning is reprehensible, but I understand that it is practiced by several European countries.

It is presumed that the majority of the ex-convicts go to the United States, where they hope to be lost in the large population, and where they expect to find an opportunity of beginning a new life. This Riemenschneider above mentioned was in partnership with one Salomansen in the book trade. Having a large note to pay and no assets, Riemenschneider, who was a clever engraver, struck off several Danish bills in 1,000-kroner notes. These were so skillfully made that had they been given a little more time to dry before being presented they might not have been detected for a long time. As it was the parties were arrested and sentenced to prison, where Riemenschneider further showed his ingenuity and, as it seems, earned considerable money by constructing a system of bills for use in the building where he was confined. Some months before the expiration of their terms both the convicts

were offered pardon upon the usual condition that they would leave Denmark forever. Riemenschneider accepted these terms, while Salomansen declined to leave his native land and is serving out his term of imprisonment. It has, as stated, been reported that Riemenschneider went to America with his wife, and that he is now in the United States.

I am inclined to deem it most probable that if he went to America at all he went via Germany or England.

In this way he would sooner escape notice and avoid a long voyage in company with people who knew his past.

Since I came here, two and a half years ago, I have heard some reports of paupers going to America under rather suspicious circumstances, but the particulars have been so difficult to secure that I have not reported them, and I am now unable to give any more than a general, superficial statement.

Last winter it was said that a man, with his wife and children, had for a long time been supported by the community. Suddenly he disappeared from the poor-house, and in course of time a letter came from him from America. He requested that his wife and children be sent to him.

These accordingly disappeared in two installments, but where the money for their passage came from no one knows. It is hardly probable that the husband furnished the means. Of course, the Government of Denmark can in no wise be blamed for such things, as they happen without its knowledge, but I suppose that there are poor-house boards that do not shrink from disposing of their paupers in this manner.

I do not know what measures could be taken by our Government to guard our society from the infliction of European outcasts, to which it has been so long subjected. Perhaps the inspection at our American ports of entrance might be made more rigid, but, as our foreign service is now organized, it is, in my opinion, impossible to do much on this side of the Atlantic. Certainly our ministers and consuls could not examine the half million of Europeans who emigrate annually, nor could we well demand passports from all those who wish to land in American ports.

I have, etc..

R. B. ANDERSON.

No. 324.

Mr. Bayard to Mr. Anderson.

[Extract.]

No. 62.] DEPARTMENT OF STATE,
Washington, November 1, 1887.

SIR: Your dispatch No. 156 has been received. In it you state that you have been informed of a movement on the part of Germany which appears to be the beginning of an attempt to influence or compel Denmark to exclude American pork.

The matter is important, and you are instructed to keep a close watch and report what may transpire.

Certain executive documents* bearing on the subject accompany this instruction. From these you will be able to gather ample arguments

* Accompaniments not printed herewith.

to show that such a prohibition as is foreshadowed would be utterly needless and a harmful blow at the increasing trade relations between the United States and Denmark which we are so desirous to foster.

I am, etc.,

T. F. BAYARD.

No. 325.

Mr. Bayard to Mr. Anderson.

No. 64.] DEPARTMENT OF STATE,
Washington, November 16, 1887.

SIR: I have read with much satisfaction your No. 159 of the 18th ultimo, reporting the result of your examination of the question of the official deportation of ex-criminals to the United States. A copy of it has been transmitted to the Secretary of the Treasury for his information.

It is desired that you continue your watchfulness in regard to this matter, and should any actual case of such deportation or emigration become known to you that you should not only communicate it at once to this Department, but also to send information of it to the collector of the port of destination promptly.

I am, etc.,

T. F. BAYARD.

No. 326.

Mr. Anderson to Mr. Bayard.

[Extract.]

No. 168.] LEGATION OF THE UNITED STATES,
Copenhagen, November 17, 1887. (Received December 5.)

SIR: Acknowledging the receipt of your dispatch No. 62, dated November 1, and referring to my No. 156, I have the honor to report the following: A prominent pork-packer here in very good standing sent two cargoes of pork to Paris, where the article found a ready market at a good price. Encouraged by this he sent a cargo to Bordeaux, but this was confiscated, after a specimen of it had been sent to Paris for examination and it had been decided that it was American pork, a fact which occasioned the confiscation.

The Danish exporter declares, upon his honor, that the hogs were not American and were slaughtered by himself. He is willing to support this statement by his oath. A complaint has been made at the Danish foreign office and a correspondence is now being carried on between the Danish and French Governments anent the matter. A pork plague is now raging in southern Sweden and about Copenhagen, a fact which may lead to an exclusion of Danish pork from Germany and other countries. It *may* be that after this exclusion has taken place, Germany will not again open her doors to Danish pork unless Denmark shuts her doors against the American product. I have read your inclosures accompanying your dispatch No. 62, concerning the pork question between the United States and Germany and France, and had a con-

versation yesterday with the director-general of the Danish foreign office. He assured me that there was *no disposition whatever* on the part of Denmark to exclude American pork, and that no arguments pro or contra, were necessary. The Danish export of pork to Germany amounts to about $5,333,000 annually.

It is apparent that Denmark can not sacrifice the $5,333,000 of export for the sake of admitting American pork.

I have, etc.,

R. B. ANDERSON.

No. 327.

Mr. Anderson to Mr. Bayard.

[Telegram.]

LEGATION OF THE UNITED STATES,
Copenhagen, December 9, 1887. (Received December 9, 1887.)

BAYARD,
Secretary of State, Washington:

Two suspicious persons, traveling under assumed names, were arrested in Copenhagen yesterday; there was strong suspicion that one was John A. Benson, late survey contractor, California, indicted by the United States for conspiracy and fraud, and the other an accomplice; the one admits his identity, and papers found in their possession confirm his identity completely. The two may have exchanged names, but one of them is certainly John A. Benson—the other claims to be Benson's brother. The Danish Government is willing to deliver them to the United States if you instruct me to demand it; if you state that Benson and his accomplice are American citizens; if you state that Benson is under criminal indictment, name the crime, and if the proper court has issued or will issue and cause sent to me order of arrest. If thus desired Denmark will transport the two men to America in charge of a policeman at the expense of the United States. Answer at once, as Benson and his accomplice are in jail until I hear from you.

ANDERSON.

No. 328.

Mr. Rives to Mr. Anderson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 12, 1887.

ANDERSON,
Minister, Copenhagen:

Benson indicted in United States circuit court, California, for forging papers to secure extensive land grants. Described as having large portly physique, weighing about 250 pounds, large protruding stomach, restless eye, rather effeminate voice. His brother not indicted. Copies of indictments, order, arrest, and other papers will be sent at once to Copenhagen with officer designated to receive him there.

Department assumes that Denmark extradites without treaty. It should be understood that under our system United States can only extradite when there is a treaty.

RIVES,
Acting Secretary.

No. 329.

Mr. Anderson to Mr. Bayard.

[Telegram.]

LEGATION OF THE UNITED STATES,
Copenhagen, December 14, 1887.

Benson's identity certain. Send officer to receive him at once. Denmark willing to extradite without treaty. Key to Benson's cipher dispatches found. Instruct me to ask for copies of his telegrams sent and received here.

ANDERSON.

No. 330.

Mr. Anderson to Mr. Bayard.

[Extract.]

No. 184.] LEGATION OF THE UNITED STATES,
Copenhagen, December 16, 1887. (Received January 3, 1888.)

SIR: I have the honor to report that John A. Benson's brother who traveled with him under the assumed name of William B. Frank, and in regard to whom you telegraphed me that there was no indictment against him, will be released from prison in Copenhagen on Wednesday, December 21, and will sail on that day in a Thingvalla steamer direct for New York.

I have, etc.,

R. B. ANDERSON.

No. 331.

Mr. Anderson to Mr. Bayard.

[Extract.]

No. 187.] LEGATION OF THE UNITED STATES,
Copenhagen, December 22, 1887. (Received January 10, 1888.)

SIR: Referring to my previous dispatches in which I have reported the possibility of Danish pork-packers seeking a market for their product in the United States, I now have the honor to report, that as I learn from the United States consul here a small shipment of pork (bacon) was yesterday, the 21st instant, made to New York per the Thingvalla Line's steamer *Thingvalla.*

As the epidemic is still raging in portions of Denmark, and as several

of the European countries have excluded Danish pork and its products from their markets on this account, I deem it my duty to inform you at once in regard to the above shipment.

I understand that the Germans are trying to spread the notion that the epidemic raging here has come from America.

I have, etc.,

R. B. ANDERSON.

No. 332.

Mr. Bayard to Mr. Anderson.

No. 68.] DEPARTMENT OF STATE,
Washington, January 6, 1888.

SIR: Immediately upon the reception of your telegram of the 24th ultimo, informing the Department of the willingness of the Danish Government, in the absence of treaty, and as an act of courtesy which the laws of the United States do not authorize this Government to reciprocate, to surrender John A. Benson, charged with extensive frauds in relation to public lands in the State of California, to the authorities of the United States for trial, I at once caused the Department of Justice to be informed of the purport of your telegram, and steps were immediately taken to procure evidences of Benson's guilt. But by reason of the distance from this capital of the place where are held the sessions of the court in which he was indicted, and of the voluminous character of the papers relating to Benson's numerous alleged crimes againstthe land laws, some delay has supervened in procuring the desired proofs.

The Department, however, has now received, through the Department of Justice and herewith incloses copies duly authenticated, under the laws of the United States of twelve indictments, some of which are for conspiracy to defraud the United States, and the others for procuring false certificates of title to lands to be made for the purpose of obtaining money from the United States. These indictments are all accompanied with warrants of arrest.

You are instructed to request the Government of Denmark to deliver with the copies of the telegrams sent and received by him in Copenhagen, and any other evidences in its possession tending to show his guilt.

I am, etc.,

T. F. BAYARD.

No. 333.

Mr. Bayard to Mr. Anderson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 7, 1888.

ANDERSON, *Minister, Copenhagen:*

Benson extradition papers mailed yesterday. Is Benson's identity established to satisfaction of Danish Government, and would prisoner be delivered to United States officer now on his way from California, if sent to Denmark?

BAYARD.

No. 334.

Mr. Anderson to Mr. Bayard.

[Telegram.]

LEGATION OF THE UNITED STATES,
Copenhagen, January 8, 1888.
(Received January 9—11.10 a. m.)

Benson's identity perfectly established. Prisoner will be delivered to United States officer on his arrival here. Send officer at once.

ANDERSON.

No. 335.

Mr. Anderson to Mr. Bayard.

[Extract.]

No. 199.] LEGATION OF THE UNITED STATES,
Copenhagen, February 1, 1888. (Received February 15.)

SIR: I have the honor to report that John A. Benson, the person indicted in the United States circuit court of California for conspiracy and extensive land frauds, arrested in Copenhagen December 8, 1887, and held by the Danish Government at your request, left here on Monday evening, January 30, for New York via Bremen in charge of United States Marshal J. C. Franks, of San Francisco. They were to sail today on the steamer *Lahn*, of the North German Lloyd line, and may be expected to arrive in New York about the 9th or 10th.

At the police station the prisoners gave their names as John D. Pomeroy, of Montreal, and William B. Franks, of Victoria, British Columbia. They stated that they had come to England for the purpose of buying cattle and were in Denmark on a pleasure trip. The following day two scrapbooks, found in their trunks, and filled with newspaper clippings relating to the "Benson" and allied cases, and strongly tending to excite suspicion that these men were in some way connected with such cases and fugitives from justice, were sent to me by the police authorities, this being the first intimation I had of the affair. By this time the prisoners had confessed their real identity. After an interview with the royal Danish minister of foreign affairs I sent you my telegram of December 9, in which I stated Denmark's willingness to extradite the men, if desired by the United States, even in the absence of a treaty. Not hearing from you during the two days following, and having been informed that the prisoners could not be held much longer, except upon specific request from me, I cabled you again on December 11 that I must have an answer before the 12th at noon or the persons would be sent out of the country. A telegram received from you early in the morning of the 12th instructed me to request the detention of the prisoners and notified me that I should receive full instructions on the day following. On the 13th came your telegram describing Benson and requesting that he be held until an officer should come for him, stating also that his brother was not indicted. I carefully followed your instructions, and orders were issued for the detention of John A. Benson, while his brother Frank was sent to America by the Thingvalla steamer *Thingvalla*, as I informed you in my dispatch No. 184, of December 16,

The indictments in the cases were duly received by me, and United States Marshal J. C. Franks arrived here on Thursday, January 26, upon which arrangements for the prisoner's conveyance were made as soon as possible. Marshal Franks suggested that a Danish officer be allowed to accompany him and the prisoner to Bremen, but to this the authorities could not consent, as they wished to avoid any complications with Germany and did not know how that Government would look upon this act of transporting a prisoner through its territory without first obtaining its permission. It was stated to me that no such course would be tolerated by Denmark. An officer was, however, detailed to accompany the two to the Danish border. I notified United States Consul Loening at Bremen that Marshal Franks would arrive in his city with Benson on the 31st and asked him as a favor to render the marshal any assistance in his power. He answered "all right," and that official assistance would be given.

I have, etc.,

R. B. ANDERSON.

No. 336.

Mr. Anderson to Mr. Bayard.

[Extract.]

No. 202.] LEGATION OF THE UNITED STATES,
Copenhagen, February 3, 1888. (Received February 20.)

SIR: I have the honor to report that I learned yesterday that strong pressure is being brought to bear upon Denmark by the Governments of Germany and of Sweden and Norway to compel Denmark to close her markets against American pork and its products. You may therefore expect notice at any time of the exclusion of American pork from Sweden and Norway.

I have been positively informed that the Governments of Germany, Sweden, and Norway have threatened to refuse to admit pork from Denmark unless the latter country accedes to their demands. I will add, that those engaged in pork raising in Denmark are doing all in their power to induce the Danish Government to prohibit the importation of American pork. In this they are of course pecuniarily interested, as it will raise the price of pork. It is being urged in many quarters by those interested that the swine epidemic (which I have reported) comes from America, although no *live pork* has ever been brought to Denmark or to Europe so far as I know. The advocates of prohibition claim that the large wooden casks in which American hams are shipped are afterward used as pens or sties, in which pigs are fattened in Scandanavia, and that in this manner the disease is conveyed from America to the live Scandinavian hogs. This theory seems to me the height of absurdity, and yet the advocates of prohibition are using it most vigorously and seemingly with success.

I have, etc.,

R. B. ANDERSON.

No. 337.

Mr. Anderson to Mr. Bayard.

No. 207.] LEGATION OF THE UNITED STATES,
Copenhagen, February 24, 1888. (Received March 12.)

SIR: I have the honor to report that, in obedience to your dispatch No. 68, dated January 6, 1888, instructing me to request the Danish Government to deliver with the prisoner John A. Benson, who was recently extradited to the United States, copies of telegrams sent and received by him in Copenhagen, together with other papers in its possession tending to show his guilt, I at once applied to the royal Danish foreign office for such documents.

Most of the papers collected were delivered to United States Marshal Franks, as reported in my dispatch No. 199, dated February 1. I have today received from the royal Danish foreign office authenticated copies of thirteen telegrams* sent by Benson from this city to America before and after his arrest. These I have herewith the honor of transmitting.

I have, etc.,

R. B. ANDERSON.

No. 338.

Mr. Anderson to Mr. Bayard.

No. 208.] LEGATION OF THE UNITED STATES,
Copenhagan, February 24, 1888. (Received March 12.)

SIR: I have the honor to report that, acting upon the instructions contained in your printed circular dated July 9, 1887, I embodied a request for the desired information in a note to the royal Danish minister of foreign affairs, under date of August 11, 1887.

Having just received a reply from his excellency, I have herewith the honor of transmitting to you copies of both notes, together with a translation of the latter.

I have, etc.,

R. B. ANDERSON.

[Inclosure 1 in No. 208.]

Mr. Anderson to Baron Rosenörn-Lehn.

LEGATION OF THE UNITED STATES,
Copenhagen, August 11, 1887.

EXCELLENCY: In obedience to instructions from my Government I have the honor to ask your excellency to have the goodness to inform me whether, in the ports of Denmark or in any dependency thereof, any discrimination exists against vessels of the United States as compared with the vessels of Denmark (other than those engaged in the coasting or colonial trade), or the vessels of any third country.

Should any such discrimination exist, I will be obliged to you if you will inform me in regard to its precise nature and extent.

I avail myself, etc.,

R. B. ANDERSON.

* Inclosures not printed herewith.

[Inclosure 2 in No. 208.—Translation.]

Baron Rosenörn-Lehn to Mr. Anderson.

COPENHAGEN, *February* 22, 1886.

Mr. MINISTER: In a note dated August 11 of last year you desire to ascertain whether, in the ports of Denmark or any dependency thereof, any discrimination exists against vessels of the United States as compared with the vessels of Denmark (other than those engaged in the coasting or colonial trade), or the vessels of any third country.

In reply I have the honor to make the following statement:

According to article 3 of the treaty of April 26, 1826, between Denmark and the United States, United States vessels engaged in the Danish foreign carrying trade are in the ports of Denmark to be treated in every respect the same as Danish vessels.

Ship dues, which in Denmark have replaced the former tonnage, light-house, and clearance dues, and are the only ones collected, are therefore exacted of United States vessels according to the same rules as of Danish vessels, and in the royal and municipal harbors they pay the same harbor and wharf dues as the Danish ships (at least in case the Danish vessel does not belong in the harbor concerned, as in some municipal harbors—Copenhagen excepted—the harbor dues are lower for such vessels than for other Danish vessels.)

In the above-mentioned note you did not include vessels engaged in the coasting trade. I would, however, state for your information upon this point that His Majesty's Government is willing, in case of reciprocal action on the part of the United States, to grant United States vessels the right of free coast trade between the harbors of the kingdom upon an equal footing with Danish vessels.

According to article 6 of the treaty of 1826, the provisions of that treaty are not to apply to Iceland, the Faroe Islands, Greenland, or the Danish West Indies.

By independent legislation in Iceland no restrictions or discriminations in the treatment of United States vessels are provided for, save those in regard to the coasting trade, and the trade between Iceland and this Kingdom and His Majesty's Government is willing, in case of reciprocity on the part of the United States, to remove this discrimination against United States vessels.

The laws governing the Faroe Islands require of United States vessels visiting these islands for purposes of trade, besides the usual tonnage dues, the supplementary charge of 2 kroner per ton of the vessel's tonnage, and in addition thereto the above-mentioned restriction in regard to the coasting trade and the trade between the islands and the Kingdom is in force. But inasmuch as this supplementary charge has by treaty already been removed in regard to vessels of various other nations, His Majesty's Government is willing to extend this favor to those of the United States, and also, in case of reciprocity, to extend to them the privileges of the coasting trade among these islands as well as of the trade between the islands and the Kingdom.

In the Danish West Indies United States vessels are, upon the whole, treated in all respects the same as Danish vessels.

Finally, I may call your attention to the fact that the trade of Greenland is no more open to Danish vessels than to foreign vessels, that trade being reserved exclusively for the Crown.

I seize, etc.

O. D. ROSENÖRN-LEHN.

No. 339.

Mr. Anderson to Mr. Bayard.

No. 209.] LEGATION OF THE UNITED STATES,
Copenhagen, February 25, 1888. (Received March 12.)

SIR: Referring to my dispatch No. 208, dated February 24, 1888, I have the honor to call your attention to the fact that I divided your circular of July 9, and made it a subject of two notes to the royal Danish minister of foreign affairs. In the first I simply asked for the information required by the latter part of the circular, and the note from the minister of foreign affairs, which I transmitted with my No. 208, is an answer to the same. In my second note I embodied the invitation

to the Government of Denmark to co-operate with the Government of the United States toward the ends contemplated by the circular.

To this second note I have not yet received a reply, but I am informed that an effort is being made to abolish all tonnage and equivalent charges on navigation. The foreign office is daily expecting information from the minister of finance on the subject, and as soon as that is at hand I am promised an answer to my second note. Count Sponneck, the Danish minister in Washington, has, I understand, been fully instructed in regard to the position of the Government of Denmark anent this subject.

I have, etc.,

R. B. ANDERSON.

No. 340.

Mr. Anderson to Mr. Bayard.

[Extract.]

No. 210.] LEGATION OF THE UNITED STATES,
Copenhagen, February 27, 1888. (Received March 16.)

SIR: I have the honor to report that I was informed day before yesterday that the committee of the upper house of the Rigsdag, to which the petroleum bill introduced by the minister of justice has been referred, will doubtless report an amendment to the bill in favor of raising the fire test of petroleum to 40° Celsius, a test equal to that of what is known in America as "water-white" oil.

I have, etc.,

R. B. ANDERSON.

No. 341.

Mr. Anderson to Mr. Bayard.

No. 214.] LEGATION OF THE UNITED STATES,
Copenhagen, March 12, 1888. (Received April 2.)

SIR: Referring to my previous dispatches on the pork question, I have now the honor to report that the following Government order, excluding American pork and its products from Denmark until further notice, was published in the official Danish paper of Saturday, the 10th instant:

In pursuance of section 9 of the law of December 29, 1857, relative to contagious disease among domestic animals, the importation into Denmark of pork and other raw products of hogs, including bladders and steam lard, from the United States of North America is, until further notice, forbidden.

This order to go into immediate effect. Published for the information and observance of all whom it may concern.

I have, etc.,

R. B. ANDERSON.

No. 342.

Mr. Bayard to Mr. Anderson.

[Extract.]

No. 80.] DEPARTMENT OF STATE,
Washington, March 24, 1888.

SIR: Your dispatch No. 210, of the 27th ultimo, in which you inform the Department that the committee of the upper house of Rigsdag would probably report in favor of raising the fire-test of petroleum to 40° Celsius, was duly received.

Upon the receipt of your dispatch, a telegram was sent to you instructing you that a higher petroleum test than now enforced in England, Sweden, and Germany would seriously cripple American exports to Denmark.

You are instructed to watch the progress of the measure in question, and, should occasion offer, to make such representations to the Danish Government as may seem to be required for the protection of American interests.

I am, etc.,

T. F. BAYARD.

No. 343.

Mr. Anderson to Mr. Bayard.

[Extract.]

No. 216.] LEGATION OF THE UNITED STATES,
Copenhagen, March 19, 1888. (Received April 2.)

SIR: I have the honor to report that your telegram, bearing no date but probably sent on Saturday, March 17, acknowledging the receipt of my dispatch No. 210, and stating that a higher petroleum test than now exists in England, Germany, and Sweden would seriously cripple American exports to Denmark, has been received. I have made no delay in communicating its contents to the minister of foreign affairs.

Referring to my dispatch No. 210, I would state that the committee therein mentioned have since reported in favor of an amendment to the bill raising the fire-test to 40° Celsius.

As no appropriation bill has been passed by the Rigsdag as yet, it will be found necessary to prorogue that body before April 1, in order that a provisional budget may be issued before the beginning of a new fiscal year, and under these circumstances no petroleum legislation will be consummated during the present session. The next session of the Rigsdag opens in October next.

I have, etc.,

R. B. ANDERSON.

CORRESPONDENCE WITH THE LEGATION OF DENMARK AT WASHINGTON.

No. 344.

Count Sponneck to Mr. Bayard.

[Translation.]

LEGATION OF DENMARK,
Washington, March 26, 1888. (Received March 27.)

Mr. SECRETARY OF STATE: In laying before you the inclosed petition of C. A. B. Johnson, which has been forwarded to me for this purpose by the ministry of foreign affairs, I have the honor to add the following remarks:

From the certificate of baptism, which is appended to the petition, and which I beg you to be pleased to return to me, it appears that Johnson, who was born September 27, 1855, was baptized by the Rev. Charles R. Fisher, on the 28th day of September, 1856, in St. Paul's Episcopal Church, Hartford, Conn. His parents, however, were Danes, and although he is by birth a citizen of the United States, he has lived uninterruptedly ever since he was two years old in Denmark, in which country he intends to remain, and in which, by a special law, he was admitted on the 10th of February last to the enjoyment of the rights of a native of Denmark. Such a law is necessary to enable any foreigner to enjoy the rights of a citizen among us, but before it can take effect the interested party is invariably required to furnish evidence before the expiration of one year that he has been released from his foreign citizenship.

With a view to obtaining for Johnson an official document, showing that he has ceased to be an American citizen, I take the liberty, Mr. Secretary of State, of asking your kind mediation with the competent authorities. Nevertheless, in case such a formal declaration should be incompatible with the laws of the United States, the petitioner might arrange matters by furnishing a declaration from the competent American authorities of a less categorical nature, merely stating that the United States Government has no objection to Johnson's becoming a Danish citizen, in which case I should be glad if you would, if possible, send me such a document.

Be pleased to accept, etc.,

F. W. SPONNECK.

[Inclosure 1.]

PETITION OF C. A. B. JOHNSON TO BE RELEASED FROM HIS AMERICAN CITIZENSHIP.

COPENHAGEN, *February* 22, 1888.

I undersigned Charly A. B. Johnson, borned in Hartford, Conn., U. S. A., year 1855, solicits the Government of the United States of America to release me from my duties as American subject, as the Royal Danish Government has granted me protection as a Dane.

CHARLY A. B. JOHNSON.

The GOVERNMENT OF THE UNITED STATES OF AMERICA,
Washington.

[Inclosure 2.]

CERTIFICATE OF BIRTH OF C. A. B. JOHNSON.

Charly Adolph B. Johnson, son of Fred. Julius Johnson and Sophie Louise, his wife, born the 27th day of September, 1855, was, according to the parish register of St. Paul's Episcopal Church, Hartford, Conn., America, baptized by the Rev. Charles R. Fisher on the 28th day of September, 1856.

V. A. M. MORTENSEN,
Pastor of the Danish Evangelical Lutheran Congregation at Hartford, Conn., United States of America.

HARTFORD, CONN., *November* 1, 1886.

No. 345.

Mr. Bayard to Count Sponneck.

DEPARTMENT OF STATE,
Washington, April 10, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 26th ultimo, inclosing the petition of Charly A. B. Johnson, soliciting release from the duties of American citizenship on the ground of having been granted Danish protection.

From the explanatory statement in your note it appears that Mr. Johnson, while born in the United States of Danish parents in 1855, has lived uninterruptedly since he was two years old in Denmark, *animo manendi*, and was by a special law admitted on the 10th of February last to the enjoyment of the rights of a native of Denmark; and, further, that before the law referred to can take effect the interested party is required to furnish evidence (before the expiration of one year) that he has been released from his foreign citizenship. To this end you ask for the official certificate of such release or some equivalent declaration.

While it is not competent, under existing statutes, for the Department of State to issue at their request certificates to particular citizens admitting the renunciation of their allegiance, I have no hesitation in saying that the Government of the United States recognizes the right of expatriation, and this Department has frequently declared, as a general principle, that when a citizen of the United States voluntarily becomes naturalized or renaturalized in a foreign country, he is to be regarded as having lost his rights as a citizen of the United States.

In the particular case you present a special doctrine is applicable besides the general one thus announced; and that is that a child born abroad of American parents, or in the United States of foreign parents, although subject to the parental domicil during minority, has, on becoming *sui juris*, the right of election of citizenship; and, in the event of choosing American nationality, the best proof of such election is to be furnished by continued residence in the United States, or by return hither, if abroad, and the discharge of the duties and obligations of the elected citizenship. The converse of this proposition would seem to meet Mr. Johnson's case on the facts as stated by you.

Accept, etc.,

T. F. BAYARD.

ECUADOR.

No. 346.

Mr. Reinberg to Mr. Rives.

No. 161.] CONSULATE-GENERAL OF THE UNITED STATES,
Guayaquil, October 17, 1888. (Received November 14.)

SIR: I have to inform the Department that a decree has been passed by the last Ecuadorian Congress, to take effect from January 1, 1889, allowing vessels flying foreign flags to engage in the river and coasting trade of Ecuador. This was formerly allowed only to vessels flying the national flag, the Government reserving the right to stop all traffic and close any or all ports during a time of revolution or in the event of a war with any foreign nation.

I have, etc.,

MARTIN REINBERG,
Vice-Consul-General.

No. 347.

Mr. Rives to Mr. McGarr.

No. 60.] DEPARTMENT OF STATE,
Washington, October 24, 1888.

SIR: I inclose herewith an instruction addressed to Mr. J. G. Walker, now at Quito on a special mission to the Government of Ecuador.

The instruction relates to the law recently passed by the Ecuadorian Congress for the purpose of exempting the Government of the country from diplomatic claims growing out of the acts and omissions of its authorities. If, at the time of the reception by you of this document, Mr. Walker is still at Quito, you will at once forward it to him, retaining a copy for your files.

If not, you are instructed to retain the original and to execute its directions by writing to the Ecuadorian minister for foreign affairs the following note:

I am instructed by my Government to inform you that it has had brought to its attention a law recently passed by the Ecuadorian Congress in relation to the responsibility of the Government of Ecuador for losses and injuries suffered by foreigners in this country by reason of the acts and omissions of its authorities. In this law it is declared that Ecuador is not responsible for losses and damages caused by the enemy, either in a civil or international war, or by mobs, riots, or mutinies; or for losses and damage caused by the Government in its military operations, or in the measures it may adopt for the restoration of public order; that the country is not liable for losses or damages consequent upon measures adopted by the Government towards natives or foreigners, involving their arrest, banishment, imprisonment, etc., whenever the

exigencies of public order or a compliance with treaties with neighboring nations may require such action.

My Government regards these provisions as generally and substantially subversive of the principles of international law by which, and not by domestic legislation, the ultimate liability of Governments to one another must be determined. Should any case calling for such action hereafter unhappily arise, my Government could not admit that its diplomatic intervention could be forestalled by an internal legislative limitation of liability imposed by the Ecuadorian Congress.

Entertaining a friendly interest in the prosperity and development of the Ecuadorian Republic, my Government can not but hope that that of Ecuador will perceive the impolicy of legislation in regard to international matters which is not compatible with cordial relations with foreign states, and which can not fail to be injurious to Ecuador's commercial interests.

I am, sir,

G. L. RIVES.

[Inclosure 1 in No. 60.]

Mr. Walker to Mr. Bayard.

No. 11.] SPECIAL MISSION TO ECUADOR,
Quito, September 19, 1888. (Received October 15.)

SIR: Although the subject of this communication is not entirely pertinent to the objects of my special mission, I think it proper to forward you a translation of the law recently adopted by the Ecuadorian Congress, as the execution of it in the future may give rise to other complications between our two Governments such as I am now engaged in settling.

This law was passed by the Congress just before the inauguration of President Flores, and upon his assuming power he sent a special message to the two houses advising its repeal, but they refused, and it is now the law.

The foreign diplomatic corps here protested against the act as contrary to the law of nations, and I was asked to join them, but I declined on the ground that my mission here was confined to a specific subject. In my conversations, however, with President Flores and other members of the Government, I have dwelt upon the danger to Ecuador, so far as foreigners are concerned, the execution of such a law would entail.

The refusal of Congress to follow his recommendation in this case and its rejection of his *projet* for the abolition of church tithes so disheartened President Flores that he sent in his resignation, which, however, it unanimously refused to accept.

I am, etc.,

JNO. G. WALKER.

[Inclosure 2 in No. 60.—Translation.]

The Ecuadorian Congress decrees as follows:

ART. I. The nation is not responsible for losses and damages caused by the enemy, either in a civil or international war, or by mobs, riots, or mutinies; or for those which may be caused by the Government in its military operations, or in the measures it may adopt for the restoration of public order. Neither natives nor foreigners shall have any right of indemnity in such cases.

ART. II. Neither is the nation responsible for losses or damages consequent upon measures adopted by the Government toward natives or foreigners involving their arrest, banishment, imprisonment, *internation* or extradition, whenever the exigencies of public order or a compliance with treaties with neighboring nations require such action.

ART. III. The payment of indemnities not excluded by the foregoing articles can not be made except in conformity with the law of public credit, and after a previous judgment by a competent judicial officer.

ART. IV. Neither foreigner nor native shall have the right of presenting claims to the legislature which were previously rejected by a former congress.

ART. V. Foreigners who may have filled positions or commissions which subjected them to the laws and authorities of Ecuador can make no reclamation for payment or indemnity through a diplomatic channel.

ART. VI. All laws contrary to the provisions of this act are hereby repealed.

[Inclosure 3 in No. 60.]

Mr. Rives to Mr. Walker.

No. 6.] DEPARTMENT OF STATE,
Washington, October 23, 1888.

SIR: I have to acknowledge the receipt of your dispatch, No. 11, of the 19th ultimo, in which you inclose a translation of a law, lately passed by the Ecuadorian Congress, to exempt the country from any liability to foreigners for losses therein suffered in peace or in war at the hands of the Government or its enemies.

You state that the foreign diplomatic corps at Quito protested against the law, and that President Flores sent a special message to the two houses recommending its repeal. This they refused to do; and it appears that the President, discouraged by this refusal and the rejection by the Congress of his *projet* for the abolition of church tithes, sent in his resignation, which, however, the Congress declined to accept.

The extraordinary law referred to declares that Ecuador is not responsible for losses and damages caused by the enemy, either in a civil or international war, or by mobs, riots, or mutinies; or for losses and damages caused by the Government in its military operations or in the measures it may adopt for the restoration of public order; that the country is not liable for losses or damages consequent upon measures adopted by the Government toward natives or foreigners, involving their arrest, banishment, imprisonment, etc., whenever the exigencies of public order or a compliance with treaties with neighboring nations may require such action.

It is unnecessary to quote further provisions of the statute to show that it is subversive of all the principles of international law. This is so plain that it does not require or admit of argument. By such a declaration of rules for the guidance of her conduct in international relations, Ecuador places herself outside of the pale of international intercourse. It can not be supposed that she will persevere in such a course, which would be destructive of her commerce and render amicable relations with her impossible.

You are therefore instructed to say to the Ecuadorian Government that the provisions of the law in question have been read by this Department with regret, and that the United States could never acquiesce in any attempt on the part of that Government to use such a statute as an answer to a claim which this Government had presented.

I am, etc.,

G. L. RIVES,
Acting Secretary.

FRANCE.

No. 348.

Mr. Vigaaud to Mr. Bayard.

No. 471.] LEGATION OF THE UNITED STATES,
Paris, August 28, 1887. (Received September 13.)

SIR: In accordance with your instruction of July 9 I have transmitted to Mr. Flourens the initiative the President is authorized to extend, with a view of reaching and nnderstanding for abolishing certain tonnage and light-house dues, and in reply he states that he has submitted the matter to his colleagues, and that later on he will acquaint me with their opinion. In the mean time he desires three more copies of the printed circular of July 9 and of the documents therein mentioned.

I have, etc.

HENRY VIGNAUD.

No. 349.

Mr. Bayard to Mr. McLane.

No. 268.] DEPARTMENT OF STATE,
Washington, October 20, 1887.

SIR: With reference to my instruction to your legation, No. 217, of the 16th of April last, relative to obtaining the discharge from the French army of Mr. John Fruchier, a naturalized American citizen of French birth, I will thank you to inform me as to what progress has been made in the matter, in order that the Department may be able to answer the recent inquiry of his excellency the governor of Nevada relative to the subject.

I am, etc.,

T. F. BAYARD.

No. 350.

Mr. McLane to Mr. Bayard.

No. 495.] LEGATION OF THE UNITED STATES,
Paris, November 4, 1887. (Received November 15.)

SIR: In reply to your No. 268, of October 20, asking for further information with reference to the case of John Fruchier, an American citizen of French origin, enlisted in the French army, I have to state that as usual the French Government has declined to take any action in the matter, on the ground that a Frenchman who claims to have ac-

quired foreign citizenship can not be discharged from the military rolls until he produces a judgment of a French civil court recognizing that he has lost his original nationality.

I have not reported this answer of the French Government because it is the one invariably made under similar circumstances, and because I am following up this matter with a view of questioning the propriety and justice of the position assumed by the French Government.

I shall naturally acquaint you later on with the result.

I have, etc.,

ROBERT M. MCLANE.

No. 351.

Mr. McLane to Mr. Bayard.

No. 505.] LEGATION OF THE UNITED STATES,
Paris, November 18, 1887. (Received November 29.)

SIR: I have the honor to transmit herewith a bronze medal which the committee of the Bartholdi statue had struck in honor of the President to commemorate his participation in the inauguration of the Statue of Liberty last year at New York. The medal is accompanied by a letter addressed to the President and signed by M. de Lesseps, who is the president of the committee. I also inclose a translation of the same.

I have, etc.,

ROBERT M. MCLANE.

[Inclosure in No. 505.]

M. de Lesseps to the President of the United States.

MR. PRESIDENT: The Frenchmen who were present in October, 1886, at the inauguration of the Statue of Liberty at New York saw in your presence on that solemn occasion a precious proof of the sympathy of the United States for their country.

Wishing to perpetuate the memory of it, the members of the French delegation and those of the Franco-American Union have caused a medal to be struck, and they have the honor to beg you to accept the first impression of it, which they have handed to the honorable Robert McLane, minister of the United States in France, on the occasion of the first anniversary dinner, which they have just celebrated at Paris.

Permit us Mr. President, to hope for a favorable reception by the first Magistrate of the great and friendly Republic of this mark of our profound gratitude.

CT. FERD. DE LESSEPS.

NOVEMBER 18, 1887.

No. 352.

Mr. Bayard to Mr. McLane.

No. 278.] DEPARTMENT OF STATE,
Washington, December 3, 1887.

SIR: The medal for the President, commemorative of the inauguration of the Statue of Liberty at New York, which accompanied your dispatch No. 505, of the 18th ultimo, has been received and conveyed to its destination.

I am, etc.,

T. F. BAYARD.

No. 353.

Mr. Vignaud to Mr. Bayard.

No. 519.] LEGATION OF THE UNITED STATES,
Paris, December 16, 1887. (Received December 27.)

SIR: I have to acquaint you with the circumstances of the case of Albert F. Gendrot, an American citizen, who has been summoned to perform military service in France, and whose discharge, firmly and repeatedly demanded by this legation, seems more difficult to obtain than at first supposed.

Gendrot was born at Cambridge, Mass., April 29, 1866. His father, Pierre Gendrot, is a Frenchman, who emigrated to the United States in 1847, and who continued to live there, at Boston, or near by, until 1870, when he returned to France, where he remained a few years, after which he again resumed his domicile near Boston until 1885. In that year he came back to France with his family.

Albert Gendrot, then aged nineteen, accompanied his father and mother, with the view of learning French and studying art. He procured before he left an American passport.

A few months ago he was notified that, being the son of a Frenchman, he was liable to military duty in France. He protested that he was a native-born American citizen, temporarily residing in France, and declared that he would perform no military service in any other country but his own. He was, nevertheless, put on the recruiting list of the village where his father lived, and ordered to join the regiment to which he had been assigned. Upon being informed of this fact Mr. McLane addressed the following note to Mr. Flourens:

LEGATION OF THE UNITED STATES,
Paris, October 25, 1887.

SIR: I have the honor to call your kind attention to the case of Albert F. Gendrot, an American citizen, who has been placed on the military lists, in spite of his protest, by the mayor of the village of Torcé, near Bonnetable (Sarthe), where his father lives, and who has just received orders to join the corps to which he has been assigned.

Gendrot is not a naturalized American; he is a native American, born and brought up in the United States, where he received his education. He speaks French badly, and only came to France to perfect himself in that language. He is the bearer of an American passport and proposes soon to return to his country.

Under these circumstances, Mr. Minister, I trust you will have no objections to ask the minister of war to be good enough to give urgent orders that Gendrot, who has never been French, may not be impressed into a service the honors and obligations of which belong to Frenchmen alone.

This case being one of those which can hardly be postponed, I would be under still another obligation to you if you would be kind enough to take it immedately into consideration.

I avail, etc.,

ROBERT M. MCLANE.

On the 8th of November Gendrot was arrested and imprisoned for having failed to comply with the military order he had received. He telegraphed at once to the legation, and on the same day Mr. McLane again called the attention of Mr. Flourens to the matter in the short note herewith:

LEGATION OF THE UNITED STATES,
Paris, November 8, 1887.

SIR: I am advised by a telegram from Savigné Levèque that Albert Felix Gendrot to whose case I have called your excellency's attention on the 25th ultimo, has just been arrested to be incorporated in the army. Mr. Gendrot being a natural American, that is to say, an American born and brought up in the United States, his case is a very simple one, and I beg your excellency to intervene at once in order that be released.

I avail, etc.,

ROBERT M. MCLANE.

This request was complied with. Gendrot was released temporarily after one week's confinement, that is to say, November 17, and Mr. Flourens informed Mr. McLane of the fact in these lines:

PARIS, *November* 11, 1887.

SIR: In reply to your letter of the 8th of this month, I hasten to inform you that the minister of war is only waiting, to decide upon the case of Gendrot, for the arrival of certain information which he has been obliged to ask for from the prefect of the Sarthe and the commander of the recruiting bureau of Mamers.

Orders have, moreover, been given by my colleague that the departure for the regiment of the individual in question should be temporarily delayed.

Accept, etc.,

FLOURENS.

This note, although not quite satisfactory, led us to hope that Gendrot would finally be discharged. But to my surprise he called yesterday at the legation and stated that he had received another notice to join his corps, and that he would be again arrested if he did not comply with the order. He said he had come to the legation to be advised, and asked if we were able to protect him or if he had to take care of himsef. I assured him that the legation would exert all means to obtain his final discharge, but added that, judging from my experince of the delays attending in France the consideration of cases of this class, I feared no definite result could be reached before many weeks, perhaps months, during which time he might be subjected to annoying and vexatious proceedings.

I nevertheless promised him to communicate again with Mr. Flourens with reference to his case, and did so at once in the following note:

LEGATION OF THE UNITED STATES,
December 15, 1887.

SIR: Albert F. Gendrot, a natural-born American, who has been erroneously inscribed on the recruiting list of the French army, advises this legation that, notwithstanding Mr. McLane's interposition, he has received the order to join the twenty-eighth regiment of the line at Rouen. I can hardly admit that this information is correct. The two communications which Mr. McLane had the honor of addressing you with reference to this subject, October 25 and November 8, show so clearly the right of the United States Government to claim Gendrot, who was neither born nor brought up in France, and who is not domiciled there, that I must believe in a misunderstanding.

I beg your excellency to give your immediate attention to this case, which, in point of view of principle, has for us much more importance than it can have for you, and to take such action as will bring about the only solution dictated by reason and justice, if not by the strict letter of law.

I avail, etc.,

HENRY VIGNAUD,
Chargé.

The experience we have had in this legation with reference to cases of this kind is so little encouraging that I will not venture now to express any hope of succeeding in the present application; but, even with the knowledge or belief that it would be denied, it had to be made, and I trust that the manner in which this has been done will meet with your approval.

I have, etc.,

HENRY VIGNAUD.

No. 354.

Mr. Vignaud to Mr. Bayard.

No. 520.] LEGATION OF THE UNITED STATES,
Paris, December 20, 1887. (Received January 3, 1888.)

SIR: By referring to dispatch No. 519 of this legation, of date December 16, acquainting you with the circumstances of the case of Gendrot, you will see that on the 15th instant I wrote to Mr. Flourens that I had been informed that this American citizen had received notice to join a French regiment, and that I trusted such information was incorrect, as Mr. McLane had fully established the right of the United States Government to claim Gendrot.

On that very day Mr. Flourens had written me that no irregularity had been committed in the case of Gendrot, who, being the son of a Frenchman, was liable to military service in France although born in another country.

I replied immediately that I had read his communication with surprise and regret, because I anticipated that my Government would not admit his pretension, and I begged him to suspend his action and to examine again in a friendly spirit the principles involved in the matter.

I send herewith a copy and a translation of the correspondence.

I have, etc.,

HENRY VIGNAUD.

[Inclosure 1 in No. 520.—Translation.]

Mr. Flourens to Mr. Vignaud.

PARIS, *December* 15, 1887.

SIR: On the 11th of November last I informed Mr. McLane that the minister of war was only waiting, to decide upon the case of Gendrot, for the arrival of certain information from the prefect of the Sarthe and the officer in charge of the recruiting office of Mamers, which he had asked for.

General Logerot announces to me to-day that it appears from information transmitted to his department that the interested party was, as a matter of course, and by the application of articles 8 and 10 of the law of the 27th of July, 1872, placed upon the recruiting list in the commune of Torcé, where his father is domiciled, who there has the enjoyment of his civil and political rights. In support of the protest which Gendrot has made against this enrollment he has produced only a certificate showing that he was born the 29th of April, 1866, at Cambridge, State of Massachusetts. By the French law the person born abroad of French parents is French, and it is for this reason that the enrollment of Gendrot has been maintained by the council of revision.

In this state of things my colleague is of the opinion that no irregularity has been committed to Gendrot's prejudice, and begs me to express to you his regrets that he is not in a position to delay any longer calling this young man to serve under our flag.

Receive, etc.,

FLOURENS.

[Inclosure 2 in No. 520.]

Mr. Vignaud to Mr. Flourens.

LEGATION OF THE UNITED STATES,
Paris, December 17, 1887.

SIR: I have read with surprise and regret your communication of the 15th instant, concerning the Gendrot case, which crossed mine of the same date.

I might understand that the Government of the Republic should claim those who, born in France, have changed their nationality before complying with the French

military laws, but that it should claim as Frenchmen native-born Americans who happen to be temporarily in France is a contention which the United States Government will refuse to admit, I have no doubt. I therefore beg your excellency to suspend the decision taken with reference to Gendrot, and to examine again in a conciliatory spirit the questions of principle involved in this case.

The information transmitted to the minister of war, and communicated to me by your excellency, adds no new element to the question. Mr. McLane knew that it was in accordance with law that Gendrot's name was inscribed on the recruiting list; he knew also that no irregularity had been committed with reference to French law, and so he did not base his remonstrance on such a ground, but on the higher ground of the consideration which is due by friendly governments to their respective sovereignties. To claim as a Frenchman a man in the situation of Gendrot is to seek to take away from the legitimate jurisdiction of the United States a natural-born American, to place him, against his will and against the protest of the United States, under the jurisdiction of France, where he accidentally finds himself, and to which he is bound by no other tie save the nationality of his father.

It is to this consideration that I call your attention. Gendrot's case is not one to which the doctrine of *jus sanguinis* can be strictly applied. Gendrot was not born in the United States by accident. His father was not passing through the country. He was, on the contrary, regularly domiciled, and lived there for thirty years; he brought up his son there and gave him an American education. Gendrot, jr., did not come to France to establish himself, but to pursue certain studies, after which he proposed to return to the country of his birth, a country of which he has the manners, of which he speaks the language, which he considers as, and which really is, his own.

Your excellency says that, in support of his plea against his inscription on the recruiting list, Gendrot produced nothing but a certificate showing that he was born April 29, 1866, at Cambridge, Mass. But he produced also his passport, and what more could he have done? Besides his certificate of birth and his passport what other paper can a Frenchman traveling abroad produce to establish his nationality?

I venture to hope that, if your excellency will give his attention to these considerations, he will spare this legation the mortification of having to inform the United States Government that it has failed in a demand which will strike every American as well founded, and to which they all attach great importance.

I avail, etc.,

HENRY VIGNAUD,
Chargé, etc.

No. 355.

Mr. Bayard to Mr. McLane.

No. 285.] DEPARTMENT OF STATE,
Washington, December 28, 1887.

SIR: Your dispatch No. 520, of the 16th instant, reporting your intervention in behalf of Mr. Albert F. Gendrot, an American citizen impressed into the French military service, has been received.

Your course in regard to this case is approved, and you are instructed to continue to use your good offices to obtain his relief from any claims that may be made on him for military service in France. You will, however, advise him that his remaining in France after he becomes of age may be regarded as an election of French nationality (see Wharton's Digest, Vol. II, § 183, pp. 396–7, 2d edition), and that his only method of electing and maintaining an American nationality is by a prompt return to this country.

I am, etc.,

T. F. BAYARD.

No. 356.

Mr. Vignaud to Mr. Bayard.

No. 526.] LEGATION OF THE UNITED STATES,
Paris, December 29, 1887. (Received January 10.)

SIR: I have the honor to send herewith a copy and translation of Mr. Flourens' reply to my last communication, insisting upon the discharge of Gendrot. Mr. Flourens says the minister of war can not comply with the request, and repeats the usual reply made by his department to applications of this kind having reference to French naturalized Americans, viz, that Gendrot can apply to the courts of justice, and that if he secures a judgment declaring that he is not a Frenchman he will be discharged.

Mr. Flourens is undoubtedly aware that the remedy he suggests here is, in this peculiar case, illusive. The French courts of justice can adjudge that a Frenchman who has been naturalized abroad has lost his original national character, because French law so states it. But Gendrot being a natural-born American, son of a Frenchman, remains a Frenchman according to French law. His application to the courts can not therefore be successful. It seems that he has so understood his case, for I am informed by his father that, being about to be arrested again and imprisoned, he has left France.

I have, etc.,

HENRY VIGNAUD.

[Inclosure in No. 526.—Translation.]

Mr. Flourens to Mr. Vignaud.

PARIS, *December* 28, 1887.

SIR: On the 17th of this month you were good enough to write to me again upon the subject of the young man Gendrot, born in the United States of French parents. You insisted in that communication upon obtaining the exemption of that person from military service under our flag.

The minister of war, to whom I had not failed to refer your letter, recalls the fact that Gendrot, born abroad of a French father, since the latter is in the enjoyment at Torcé (Sarthe) of his civil and political rights, is a Frenchman by the terms of article 10 of the civil code, his position from the point of view of military service is therefore not doubtful and would be the same, as far as France is concerned, whatever might be the country where the interested party was born.

My colleague adds that if Gendrot insists upon claiming American citizenship, he is at liberty, in order to establish his true position, to apply to the civil courts, which are alone competent, according to the rules of our law, to decide upon questions relating to the status of persons. Only upon seeing a decision of our courts declaring the young man in question a foreigner can the military authorities consent to order that his name be stricken from the rolls of our army.

I can, therefore, only express to you again my regrets at not being in a position to further the interest which you take in the situation of Gendrot.

Accept, etc.,

FLOURENS.

No. 357.

Mr. Bayard to Mr. McLane.

No. 287.] DEPARTMENT OF STATE,
Washington, January 13, 1888.

SIR: By a dispatch dated November 10, 1887, from Mr. Pratt, United States consul at Zanzibar, I have been informed that a new treaty was under negotiation between the French Government and the King of Johanna, one of the Comoro islands, situated in the northern entrance to the Mozambique Channel. And a statement has subsequently appeared in the public prints that France has taken possession of that island.

I have, therefore, to instruct you with a view to the protection of the rights of certain American citizens there resident, to obtain, if possible, from the French foreign office an exact statement of the relations now subsisting between the two governments, and copies of any treaties France may have concluded with the King of Johanna.

I am, etc.,

T. F. BAYARD.

No. 358.

Mr. Bayard to Mr. McLane.

No. 289.] DEPARTMENT OF STATE,
Washington, January 23, 1888.

SIR: With reference to previous correspondence concerning the decree of the French Government prohibiting the importation of American pork into France, I inclose herewith, for your information, a copy of a dispatch from Mr. Dufais, our consul at Havre, relative to alleged renewed efforts at Havre to bring about a repeal of the prohibitory decree in question.

The subject has lost none of its interest here; it is the wish of the Department that no efforts may be omitted on the part of your legation to induce the withdrawal of the apparently needless, and, in some aspects, almost unfriendly policy pursued by France in relation to one of the greatest and most necessary export staples of the United States.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 289.—Extract.]

Mr. Dufais to Mr. Rives.

No. 133.] CONSULATE OF THE UNITED STATES,
Havre, France, December 22, 1887.

SIR: In the kaleidoscope of French ministerial changes appears the latest, and quite recently, as prime minister and president of the council, Mr. Tirard, the same who, on February 18, 1881, as minister of agriculture and commerce, issued the famous edict of prohibition of American salted pork being imported into France, on the ground of its consumption being against public health.

How unfounded this pretense was, and what efforts have since been made by chambers of commerce, deputations of workingmen, etc., to induce the numerous intervening ministers of commerce, need not be repeated.

I am sure our people would not care what import duty France might levy on hog produce, provided all nations be treated equally; but to admit German, Belgium,

English, etc., salted pork, hams, etc., and to exclude ours, under the ridiculous plea of its being unwholesome, is an unfriendly act towards a friendly nation, and one of the best customers France has.

I beg to inclose translation of an article contained in the "Journal du Havre," of December 14, for what it is worth.

I have, etc.,

F. F. DUFAIS.

[Inclosure 2 in No. 289.—Extract from the "Journal du Havre."—Translation.]

MR. TIRARD AND AMERICAN SALTED MEATS.

Mr. Tirard, the new president of the council, was minister of agriculture and commerce in 1881.

It was he who, in a report which we find in the Official Journal of the 19th February of 1881, asked the president of the Republic to sign a decree prohibiting the importation into France of salted pork, bacon, ham, etc., coming from the United States of America. The president of the Republic in effect signed a decree bearing date of the 18th February, 1881.

According to the judgment of Mr. Tirard, the consumption of this meat was dangerous to the public health. In the report alluded to, Mr. Tirard remarks that the importation of these meats through the port of Havre alone, the most important in France, was from 29,000,000 to 30,000,000 kilogrammes (2.2 pounds each) or 2,500 tons a month. By a single stroke of the pen this important branch of commerce, this element of prosperity of Havre, was suppressed. It deprived the carrying trade of an amount of freight not to be despised and which has not been replaced.

On November 27, 1883, Mr. Herisson, then minister of commerce, submitted to the president of the Republic another decree, withdrawing the edict of the 18th February, 1881, and Mr. Tirard, who had become minister of finance, countersigned the decree as such.

No time however, was given to rejoice over this good measure; indeed, in consequence of a manifestation in the chamber of deputies, a third decree was launched on December 28, putting off the execution of the decree of the 27th of November preceding.

This was Havre's new year's gift. Ever since then we have lived under the rule of prohibition. Not only one branch of industry suffered thereby, not only our merchant marine suffered serious loss, but the entire trade of France was struck at.

The United States of America, when they saw the French market closed to this produce, used reprisals, raising in their turn obstacles against the import of our articles and placing our products at a disadvantage in the American markets.

The prohibition of American salted pork articles, produced immediately a falling off in our exports of 125,000,000 francs (75,000,000 in 1884, and 50,000,000 in 1885), the falling off continuing ever since.

The efforts and representations which have been made, the steps which have been taken by representatives of Havre, deputies and members of the chamber of commerce, to reverse this unlucky measure reducing our trade movement by 40,000 tons and more than 50,000,000 in value, have not succeeded.

Succeeding ministers have given (holy water) promises, but that was all.

The return of Mr. Tirard to power as chief of the cabinet furnishes, perhaps, an opportunity for renewed attempts. No doubt the chamber of commerce will be disposed to new endeavors. Mr. de Querhoënt will go into harness again, and Messrs. Siegfried and Faure will give renewed assistance. (Mr. Seigfried, formerly mayor of Havre, was to form part of a Goblet ministry as minister of commerce, but the formation fell through.) The same united action as formerly will be found again all through France.

Mr. Tirard must have at heart to repair in 1887 the fault which he committed in 1881, and which had such disastrous consequences.

Mr. Dautresme, again minister of commerce, will doubtless encourage him in such efforts, whilst the message of the President of the Republic, in advance of the ministerial programme, promises serious fiscal reforms for the benefit of the whole community, bringing back revenues into the coffers of the state, enriching private purses, furnishing the middle classes and workingmen with a substantial and cheap food, whose harmlessness has been attested not less by facts than by searching and intelligent analysis.

We complained, with perfect reason, of Great Britain prohibiting the importation of French cattle into her territory under the pretext that there had been a mouth disease in 1870. Do not let us give the English the chance to say that they are not ess ridiculous than we are in prohibiting the importation of American hog produce for fear of imaginary trichinosis.

No. 359.

Mr. McLane to Mr. Bayard.

No. 538.] LEGATION OF THE UNITED STATES,
Paris, January 24, 1888. (Received February 7.)

SIR: I have the honor to send herewith copy of a note addressed to Mr. Flourens, on the 11th instant, with reference to the vexed question of the protection of American citizens of French origin, from whom military service is claimed when they visit France.

As you have been made aware by previous correspondence from this legation, there are now two American citizens of French parentage serving in the French army—Pierre Arbios, of California, and John Fruchier, of Nevada. If there is not a third (Albert F. Gendrot) it is because he has escaped after being arrested. You are also aware that when this legation applies for the discharge of an American of this category, the French Government requires that proof be made of his foreign citizenship before a court of justice, and admits that if such proof is made the man is entitled to his discharge.

In my note to Mr. Flourens I contend that when the United States Government claims an individual as a naturalized American citizen the evidence of this fact is established, and I decline to go before any court of justice to furnish a proof which is already in the possession of the Government and which it is at liberty to accept if willing to do so. I therefore renewed formally my application for the discharge of the two naturalized Americans now in the French army, and I asked for the release from all military obligation of the natural-born American claimed as French, demanding for the latter the same rights of citizenship conceded by the French Government to the naturalized American.

My note closes with an effort to impress upon Mr. Flourens the necessity of coming to some equitable arrangement with reference to cases of this kind, and I have pledged myself to consider in a friendly spirit any proposition he may be disposed to make to reach that end.

The conversations I have had with him on this subject, and the information furnished to the legation by the foreign office, lead me to believe that some kind of agreement may be made as to the mode of establishing the naturalization of those claimed as Americans. Mr. Flourens admitted to me that there should be some other means of making known to the war department that a man claiming to have renounced his French citizenship has really done so than by appealing to the courts; but he stated that in matters of this kind the Government had to defer greatly to the opinion of the minister of war.

With reference to American-born citizens whose fathers were French, Mr. Flourens showed no disposition to yield; the ruling principle of France, he said, was that the nationality was derived from parentage and not from the place of birth. I did not press him upon this point, because I am satisfied that if he makes any concession concerning naturalized French Americans he will have also to concede something concerning natural born Americans of French parentage.

An early reply to my communication can hardly be expected.

I have, etc.,

ROBERT M. MCLANE.

[Inclosure in No. 538.]

Mr. McLane to Mr. Flourens.

LEGATION OF THE UNITED STATES,
Paris, January 11, 1888.

SIR: I had just read your excellency's communication to Mr. Vignaud, of the 28th of December last, in reply to his reiterated request that Albert Gendrot, a natural-born citizen of the United States, be recognized as such. Your excellency declines to do so, and refers me to the courts of justice.

I had hoped that, owing to the circumstances of the case, the Government of the French Republic would have responded in a more liberal spirit to this request, and I must not conceal from your excellency that this decision is for me a cause of profound regret. I could let the matter rest there, but it would then be the painful duty of my Government to advise its citizens of French origin that it is powerless to prevent their being arrested and impressed into the French military service should they visit France, and that alone among all natural-born Americans those who happen to have a French father do not find under the jurisdiction of the French Republic the protection extended everywhere to every American citizen. But I owe it to myself, as well as to the Government of the French Republic, with which I desire to entertain the most cordial relations, to make another effort to conciliate you, or at least to invite your attention to the attitude taken towards the United States.

Moreover, it is necessary that our respective situations be clearly defined in this matter. Gendrot is not the only American impressed into the French military service. Pierre Arbios and John Fruchier, in reference to whom this legation has already addressed your department, are in the same case; and since your excellency furnishes me with an occasion of so doing, I propose to examine the treatment to which Americans of this class are subjected in France.

It is impossible that two friendly and enlightened Governments, such as yours and mine, should be compelled to exchange an entire correspondence each time an American of French origin, claimed to be liable to military service, ventures to set his foot in France. There must be some equitable mode of settling the position of those who are thus situated, and if you are disposed to discuss this matter with the conciliatory spirit which guides me, we should not fail to come to a satisfactory and necessary arrangement.

As the case now stands, he that is born of a French father in the United States, or the Frenchman who has emigrated there while young and has been naturalized, can not return to France without being immediately arrested, imprisoned, and sometimes roughly treated for having failed to perform military service. In vain he protests and produces his papers; he is not listened to; no attention is paid either to his passport, given by a friendly nation, or to his naturalization certificate, duly visèed by this legation, and he is brought before a court-martial, which leaves him no other alternative than to submit himself to the obligations of the military service of a country which is not his own, or to apply to a civil tribunal to have his foreign nationality established.

Reduced to this extremity, and very often having neither the means nor the knowledge necessary to bring his case before a court of justice, this American submits to the outrage, and allows himself to be conducted to the regiment.

One resource remains to him, however. Having come to France relying upon a passport promising him the protection of his Government and that of friendly countries, he appeals to his diplomatic representative at Paris, who, after having satisfied himself that he has to do with one of his countrymen whose rights are incontestable, demands of you that his name be struck from the French military rolls.

Unfortunately your excellency always replies that questions of personal status do not belong to the jurisdiction of the administration, but to that of the judiciary.

Thus, for example, on the 9th of November, 1886, I asked for the discharge of Pierre Arbios, a Frenchman by origin but an American by naturalization, who, notwithstanding this character, was enrolled in the army. The 5th of May last (1887) I made a similar demand in behalf of John Fruchier, and October 25 I applied in the same manner for Gendrot.

The cases of the two first named are almost identical. Both emigrated to the United States when minors; both established themselves there in a permanent manner and regularly acquired American citizenship, although in different ways; Arbios by the fact of the naturalization of his father; Fruchier by direct naturalization. As for Gendrot, he is a natural-born American, whose father is a Frenchman. Coming to France provided with all their papers and with the purpose of making only a temporary sojourn there, they were arrested, imprisoned, and brought before the military authorities, who sent them all three to the army; Arbios to the One Hundredth Regiment, and Fruchier to the Seventh, where they still are, and Gendrot to another.

To the complaints which I addressed to you respecting these three Americans your

excellency, in behalf of the minister of war, gave me the reply which I spoke of above, and which is invariably made me in cases of this kind—namely, that the courts should be applied to.

Your excellency could not have meant to tell me that the Government of the Republic is incompetent to decide whether an individual is or is not French; for although all questions of personal status might not come within the jurisdiction of the administration, those which refer to nationality are particularly within this jurisdiction, especially when they arise between two governments.

When a simple individual claims to be a foreigner before the military authorities, it is reasonable that he should be required to prove this before judicial authorities, for soldiers are not ordinarily jurisconsults, and they may not be in a position to decide upon the proofs of foreign nationality which are presented to them.

But when it is a government which makes the claim on another government this manner of proceeding can no longer be justified, for a government might be offended at being asked to prove judicially the fact which it affirms, and, furthermore, the very character of the fact in question is such that it is not possible to establish it by a more direct proof than the affirmation of the government.

When the Government of the United States declares that Pierre Arbios, John Fruchier, and Albert Gendrot are American citizens, and claims them as such, the proof of their foreign nationality ought to be considered as conclusive. A French tribunal can never contest this proof nor add anything to it, because it is an admitted principle that the government which grants the naturalization is the only judge of the conditions upon which it does so.

I beg you to remark that I do not contest the principle, equally sound, that each government is the only judge of the conditions upon which citizenship is lost. I admit then perfectly that the Government of the Republic may make to me one or the other of these two replies: Arbios, Fruchier, and Gendrot remain for us French, in spite of their American citizenship, as determined by American law; or, again, Arbios, Fruchier, and Gendrot are under the obligation of performing military service in France, although they may be French no longer. But you give me neither the one nor the other of these answers. You tell me, on the contrary, very clearly that it is sufficient to prove the foreign nationality of these three men to free them from military service. This proof being at hand, I ask myself why your excellency sends me to a judicial tribunal?

No legislation that I know of makes this procedure obligatory. No law obliges the war department to insist that he who claims to be a foreigner should produce this particular proof of his foreign nationality.

I fully admit that the foreign nationality must be established to the satisfaction of the war department, but it does not follow that this fact can not be established in another manner than by the production of a judgment of a French civil tribunal. The minister of war says that he can not act otherwise, but that is plainly a form of speech.

The minister means that it is the rule which he has laid down to cover his responsibility, and that he does not think he can depart from it. What he has the right to insist upon is that the exemption claimed should be clearly proved, and if he sends the person claiming it to civil courts, it is because in most cases it is a means, easy and efficacious, of covering his own responsibility. But he can act otherwise; and he does act otherwise; it is not only he who has this authority; the general commanding the corps in which the foreigner has been enrolled can order his discharge; the court-martial before which the interested party is brought can do the same thing, and has done it.

The only question, then, for the superior military authorities is to have the certainty that the person who asserts his foreign nationality in order to avoid military service is really a foreigner. Now, this certainty is acquired when the Government of the Republic is confronted by an official demand of another Government claiming one of its citizens.

To a demand of this kind it can be replied, as I have said, that the person claimed preserves, in spite of his foreign naturalization, his original nationality; or, again, that his foreign nationality does not exempt him from military service; but it must not and can not be said that the proof of the foreign nationality is still to be made, since this demand itself is a proof of it.

Shall I dare add that not only nothing compels the war department to adopt the attitude which it does adopt, but that the law seems, on the contrary, to prescribe a different one. In fact, the law says no one but a Frenchman is allowed to enter the French army.

There is here a peremptory rule which does not admit of exception, and you can not consider it wrong that my Government should claim the benefit of it.

The cases of Arbios, Fruchier, and Gendrot fall exactly within the scope of this law. Since the 9th November, 1886, in the case of the former; since the 5th May, 1887, in the case of the second; and since October 25 as for the third, the Government of the Republic possesses the official and certain knowledge that these three men are

foreigners; and yet, notwithstanding the friendly but formal and precise claim of the American Government, two of them are kept in the ranks of the French national army, where their presence is at the same time contrary to the principle which does not permit the flag of France to be defended by any but Frenchmen, and derogatory to the dignity of the United States, whose sovereignty is disowned in the persons of these American citizens impressed into the service of a country which is not their own.

Perhaps I will be told that it is not only to make proof of his foreign citizenship that the person claimed by another Government is sent before the civil tribunal, but that it is also to decide whether, according to the law of the country of his origin, he has legally lost his original national character. This is a proposition that I will not dispute, for it is founded on the principle that I have already admitted, to wit, that the country of origin is the only judge of the conditions upon which its citizens lose that character; but please note that for Governments like ours, which do not admit perpetual allegiance, this rule only finds its application in one single case—where the liberty and free will of the individual claimed as a foreigner has not been respected. For the same reason that it is not admitted in free countries that a man can be retained against his will and forever in the bonds of the nationality in which accident has caused him to be born, it can not be admitted that this same man can be deprived of his original nationality and vested with another without his consent. In cases of this kind the refusal of the country of origin to recognize the naturalization thus conferred becomes a duty.

Let us take two hypothetical cases. A son of a Frenchman who is born in France and who became an American while still a minor by the fact of the naturalization of his father, desires to assume the original nationality of his father.

The United States claim him as an American. You refuse to give him up.

A son of a Frenchman born in the United States desires to remain of the nationality of the country of his birth. You claim him as a Frenchman; the United States refuse to admit that you can do so. It is the same thing if he was born in the United States. The accident of his birth on American soil can not bind him indefinitely to America, and he ought to preserve the right of adhering to the nationality of his father if he so desires. The reverse proposition is of necessity also quite true.

If this son of a Frenchman afterwards approves, with full knowledge of what he is doing, the change of citizenship made by his father, or if he accepts the natural allegiance due to the country of birth until it has been formally renounced, nothing ought to interfere with his liberty of action.

When the naturalized American or the natural-born American belonging to this category claims in France to be an alien, and does so in full accord with the American Government, the element necessary to the validity of contracts—freedom of action—is present. There is consent, sanction, acquiescence, and thenceforth the country of origin can only ground its claim upon that man on the doctrine of perpetual allegiance; that is to say, in denying the inalienable rights that the French Revolution and the American Revolution have forever consecrated, the one possessed by every man, of choosing another country wherever he may find the conditions of happiness and prosperity.

I do not apprehend that you will take such an attitude. The country which received from America the "bill of rights," to make of it a beacon light for the world, can not tell them to-day that it does not recognize the validity of the proceedings by which a Frenchman has become American of his own free will.

I know very well that there exists an old decree inflicting certain penalties upon Frenchmen who abandon their nationality without the authorization of the Government; but this decree allows, nevertheless, the naturalizations thus acquired to stand; it is not therefore applicable under existing circumstances.

Thus, while it is admitted that the country of origin is the only judge of the terms upon which its citizens lose this character, the tribunal to which your excellency refers me to establish the nationality of those I claim as Americans, can not deny to them this character, because it is not denied that the Frenchman who, with or without the authorization of his Government, is naturalized abroad, loses his original nationality and becomes thereby unfit to perform military service, nor can that tribunal assume to pass upon the conditions on which this naturalization was acquired, because it is equally unquestioned that the country which grants citizenship, freely accepted, does so in its sovereign capacity and upon terms of which it is the sole judge.

It is therefore true to say that, in referring me to the courts, as your excellency does each time I present a claim of this kind, the Government of the Republic holds me to a useless procedure which is not prescribed by law, and to which I can not lend myself, because it might lead to unpleasant consequences.

Let us suppose that I proceed in such a way and that the court to which I apply decides that proof is not made of the American naturalization of the party I claim: What will then be the situation of our respective Governments? Mine will be obliged

either to acknowledge that its affirmation is not sufficient to establish the validity of a naturalization title granted by itself, or to refuse formally to allow such a pretension. Yours must defend this exorbitant pretension or disavow the tribunal which has made it. For my part I shall not expose my Government to be placed in such a position, and I respectfully decline to take the responsibility of engaging it in such a proceeding.

The Government of the United States is entitled to expect from the Government of the French Republic a treatment more equitable, more friendly, more liberal, and particularly more in harmony with the great principles of political freedom which they represent in the world. Does not the consideration that civilized nations owe to each other as well as to their reciprocal interests command respect for the naturalization granted by one of them?

Why retain, against his will, the man who of his own accord has severed the ties which bound him to the country of his origin and contracted others? Such a man could make neither a good citizen nor a good soldier. To compel him to perform military service is to violate in his person one of the undeniable rights of man and to have slight regard for what is due to the nation which has received him.

I dare hope that your excellency will take into serious consideration the friendly representations which I have just made, and that, appreciating the rights and duties which are incumbent upon our two Governments, respectively, in the present circumstances, you will accord to the United States that which I again have the honor of asking:

(1) The discharge of Pierre Arbios and of John Fruchier, American citizens wrongfully detained to-day under the French flag; one in the Hundredth Regiment of Infantry and the other in the Seventh.

(2) The erasure from the military rolls of the name of Albert Gendrot, a natural-born American, invested with French citizenship without his consent and knowledge.

The Government of the Republic would put an end to complaints of this kind, which I am frequently called upon to make, if it would consent to come to some agreement with me as to the line of conduct to follow in order to regulate the situation of Frenchmen who have become Americans.

Would it not be possible, for instance, to fix a time after which Frenchmen who become naturalized in the United States might visit France without being molested, and to come to some agreement with respect to the papers they would have to produce to establish that they are Americans? I am disposed to consider favorably any suggestion which may be made with reference to this matter, and your excellency can rest assured that I shall willingly lend myself to any arrangement which would protect the rights and dignity of our two Governments, and that I shall never attempt to extend the protection of the United States to persons who have not legitimately acquired a right to it. My Government has no more sympathy than I have myself for those citizens who throw off their nationality solely in order to escape the just obligations which it entails, and who would make no better Americans than Frenchmen.

I avail, etc.,

ROBERT M. MCLANE.

No. 360.

Mr. Bayard to Mr. McLane.

No. 292.] DEPARTMENT OF STATE,
Washington, February 3, 1888.

SIR: I inclose herewith for your information a copy of a dispatch from the commercial agent of the United States at Nouméa, inclosing a copy of a decree issued on the 12th of November last, prohibiting the deportation of criminals from Tahiti to this country.

The Department is gratified to receive such prompt confirmation of the execution of the instructions in this regard which your dispatch No. 472, of the 29th of August last,* informed the Department, were about to be sent to the French authorities in Tahiti.

I am, etc.,

T. F. BAYARD.

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* Printed in Foreign Relations, 1887, p. 350.

[Inclosure 1 in No. 292.]

Mr. Morgan to Mr. Porter.

No. 7.] COMMERCIAL AGENCY OF THE UNITED STATES,
Noumea, December 8, 1887.

SIR: Your dispatch of the 17th September last, containing inclosure on convict question is at hand.

By this occasion I inclose extracts from the official journal, one referring to mail service between Tahiti and San Francisco; the other, informing convicts of the fourth category, first section, that they will no longer receive permission to land in the United States.

I am, etc.,

WILLIAM E. MORGAN.

[Inclosure 2 in No. 292.—Translation.]

FRENCH ESTABLISHMENTS IN OCEANIA.

Postal service between Papeete and San Francisco by steamers or sailing-vessels.

On the 10th September, 1887, in the office of the director of the interior at Papeete, Tahiti, will be allotted the contract for the postal service between Papeete and San Francisco, by steam or sailing ships, to run until the establishment of a line of mail steamers.

Payment for this service will not exceed for each voyage (out and home) 3,000 francs for steamers, 2,500 francs for sailing vessels.

There must be at least one departure a month from San Francisco and from Papeete.

Particulars may be had on application at the office of the director of the interior.

PAPEETE, *March* 14, 1887.

A. MATHIVET,
The Director of the Interior.

[Inclosure 3 in No. 292.—Translation.]

NOTICE.

Liberated convicts of the fourth category, first section, are informed that in accordance with the commands of a ministerial telegram of August 13, 1887, number 629, permission to depart for the United States of America will be no longer accorded them.

No. 361.

Mr. McLane to Mr. Bayard.

No. 543.] LEGATION OF THE UNITED STATES,
Paris, February 9, 1888. (Received February 20.)

SIR: Referring to my No. 472, of August 29, 1887,* concerning the facilities given in New Caledonia to liberated convicts to proceed to the United States, I have the honor of sending herewith a copy and translation of a note received through the minister of the navy and the colonies from the governor of New Caledonia.

I have the honor to be, etc.,

ROBERT MCLANE.

* Printed in Foreign Relations, 1887, page 350.

[Inclosure No. 543.—Translation.]

M. Nouet, governor of New Caledonia and dependencies, to the minister of marine and colonies:

NOUMEA, *November* 9, 1887.

Mr. MINISTER: In a dispatch of the 13th of August last, No. 629, you did me the honor to transmit to me a copy of a letter from Mr. McLane, Minister of the United States in France, in reference to the facilities said to have been granted by the local government to liberated convicts for going to San Francisco, and you ask me to give you explanations on that subject.

The commercial agent of the United States would appear to me to have transmitted erroneous information to his Government, resulting, undoubtedly, from an incomplete knowledge of the regulations in regard to the authorizations of departure granted to liberated convicts.

In fact, persons of this category, compelled to reside in New Caledonia, obtain, in certain cases, permissions to depart for the countries which they designate; some among them have been thus authorized, upon their demand, to proceed to San Francisco, but not only nobody has been encouraged to go to that city, or anywhere else for that matter, but as far as San Francisco is concerned I have refused permission for the voyage on several occasions.

There has never been a question of appropriating a part of the local budget for the transportation of liberated convicts to the United States.

According to the American representative at Noumea, the French Government offers a subsidy for a line of steamers from Noumea to Tahiti and San Francisco. Mr. Morgan seems to have neglected to procure his information from sufficiently authoritative sources. I believe, in fact, that several inhabitants of Papeete have expressed the desire of seeing a regular service established between New Caledonia and Tahiti and that the council general of the latter colony has voted a certain sum destined to encourage and to aid that enterprise; but there has not, to my knowledge, been any question of prolonging this line to San Francisco.

Whatever may be the case, however, I have taken note of the instructions contained in your dispatch above mentioned of the 13th of August, and no liberated convicts shall be hereafter authorized to depart for the United States.

I am, etc.,

NOUET.

No. 362.

Mr. McLane to Mr. Bayard.

[Extract.]

No. 545.] LEGATION OF THE UNITED STATES,
Paris, February 9, 1888. (Received February 20.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 289, concerning the decree of the French Government prohibiting the importation of American pork into France, and I have read carefully the dispatch from Mr. Dufais, our consul at Havre, relative to alleged renewed efforts at Havre to bring about a repeal of the decree in question.

I can not hear of any effort that has been made in that direction beyond the newspaper article, translation of which was communicated to you by Mr. Dufais, but which has not as yet attracted the attention of the Government here. I addressed a note, however, yesterday to M. Flourens, advising him that I had heard from you under date of January 23, recalling my attention to this long-pending question and reminding me that it had lost none of its interest, and that it was your desire that no effort should be omitted to induce a favorable change in the apparently needless, and in some aspects unfriendly, policy pursued by France in relation to one of the greatest export staples of the United States. I reminded him that, under date of September 23, 1885, in a note to the foreign office, I had reviewed very fully the case which had

been, even then, fully considered by my predecessor. I reminded him further that I had never ceased to urge upon the French Government a repeal of the prohibitory decree, and, more particularly, that I had recently left with him verbal notes summing up its history and requesting that it be disposed of in a liberal spirit.

In this connection it is of some interest to advise you that when I presented the President's letter to President Carnot, upon his election as President of the French Republic, I embraced the opportunity of calling his attention to this question and noting to him the fact that I had pressed the matter upon M. Grevy's attention in 1885, and that I had reason to believe that the cabinet over which M. de Freycinet presided was well disposed to submit for the President's consideration a decree repealing the prohibition, but refrained from doing so in the face of the very strenuous opposition of the protectionists in the Chamber of Deputies, who were chiefly represented at that time by M. Dautresme, now minister of commerce. The President expressed his desire to satisfy the complaint I addressed to him upon the exclusive discrimination against the United States contained in this prohibitory decree. The President knew that I had recently conferred with M. Flourens on the subject and also with the late prime minister, M. Rouvier, before his resignation, and that I had frankly communicated to both my own opinion that, notwithstanding the good feeling of my Government to the French Republic, whenever this question should become the subject of debate in Congress it would excite a very bad feeling, and would be accepted either as unfriendly to the United States or as the evidence of a very illiberal and selfish policy, as no one now in either country believed that the sanitary considerations which were the origin of this prohibition now existed.

I would be happy to conclude this dispatch with the expression of my opinion that the efforts which I have not ceased to make since I assumed charge of this mission would be successful. I dare not do so, however, for we are in the midst of great political agitation in France in reference to the policy of having excluded French meats.

I beg to refer you to my series of dispatches, Nos. 24, 36, 53, 58, 73, 108, 202, and 403,* giving a full history of my action in this matter and of my intercourse with the French Government in regard to it. I have not thought it my duty to recommend retaliation as a remedy, which would necessarily cause great derangement of all our commercial relations with France.

In conclusion, I have to assure you that I will not cease my efforts to obtain from the Executive, even without the concurrence of the Chamber of Deputies, a decree substituting an inspection of American pork and its admission into France at the rate of duty to which all pork is subject in lieu of the original prohibitory decree, and I am not without hope of succeeding, as this question of inspecting foreign meats is now under consideration by the minister of commerce and agriculture, and an opportunity is offered, in my opinion, for at least a temporary arrangement until the Chamber shall vote upon the bill for the inspection of meats, which has been protecting almost to the prohibitory point all agricultural products, an agitation which controls the legislature and the Executive and very recently caused the failure of negotiations with Italy for a commercial treaty.

Referring to my No. 24, under date of June 16, 1885, in which I advised you that I thought my predecessor was over sanguine in his ex-

* No. 403 is printed in Foreign Relations, 1887, page 298.

pectation that the legislature would concur with the Executive in providing a law of inspection as a substitute for the prohibitory decree, I can assure you that there has never been a period since, when any cabinet minister here encouraged me to hope for a satisfactory result from the present Chamber, though they always disclaimed any unfriendly intention. M. Flourens even contended that European countries did not consider the exclusion of a particular import as unfriendly, but rather as a domestic question, connected with its economic or health policy, and referred especially to Great Britain, as pending since 1883.

I have the honor to be, etc.,

ROBERT M. MCLANE.

No. 363.

Mr. McLane to Mr. Bayard.

No. 549.] LEGATION OF THE UNITED STATES,
Paris, February 14, 1888. (Received February 27.)

SIR: On the 2d of December last Messrs. Black & King, of 71 Wall street, New York, attorneys in the case of Lefevre Bougon against Anthony Drexel and others, and Amedée Jourdain against the same, transmitted to the consul-general here letters rogatory issued by the court of common pleas for the city and county of New York to the civil tribunal of first instance at Paris, with the request to have them duly presented to the said tribunal and properly executed.

The practice here being not to take any notice of such letters unless they come through the diplomatic channel, Mr. Rathbone handed them to this legation, and on the 19th of December they were transmitted to the foreign office in the usual manner.

On the 11th instant they were returned with a request for the precise address of the parties to be examined, and with the inquiry whether our Government would be in a position to have letters of this character, issued by a French court of justice, executed by American courts.

I have returned the papers to Mr. Rathbone, who will communicate with Messrs. Black and King with reference to the addresses applied for; but as the main information desired by the French judiciary can not be furnished through that channel, I submit the matter for proper consideration to the Department.

I have, etc.,

ROBERT M. MCLANE.

No. 364.

Mr. Bayard to Mr. McLane.

No. 298.] DEPARTMENT OF STATE,
Washington, February 15, 1888.

SIR: I have before me your No. 538, of January 24, 1888, inclosing your note of January 11, 1888, to Mr. Flourens, and I am happy to acknowledge the zeal and ability which this note displays.

Your remarks in this note are directed in turn to three distinct phases of fact: (1) That of native-born citizens of the United States not

of French parentage; (2) that of persons born in the United States of French parentage; (3) that of naturalized citizens of the United States who were born in France.

As to the first class, no question as to military duty in France could arise unless they should voluntarily become French citizens by expatriation.

As to the second class (persons born in the United States of French parents), the rule is that while such persons remain in the United States they are citizens of the United States; but that should they go to France, and there, when they arrive at the age of twenty-one, elect to be French citizens, they lose all claim to the protection of the United States.

It has further been repeatedly held by us, as you are aware, that when a person thus born in the United States arrives at twenty-one in a foreign country the mode of expressing his election to be a citizen of the United States is by promptly returning to the United States. The same distinction is applied to children born abroad to the citizens of the United States. There is, in both these cases, what is called double allegiance; and by the law of nations the nationality of such persons is to be determined by their own election of nationality at their majority, which election is evidenced by placing themselves in the country they elect. Should such persons after electing the United States, and here taking up their domicil, go to France for a transient visit, it will be your duty to protect them as citizens of the United States.

As to the third class (French citizens by birth, who are naturalized in the United States), to whom your note chiefly relates, I have simply to say that the Department sustains the position taken by you, on the ground that when it presents a certificate of naturalization to a foreign government, such a presentation is a certificate of such naturalization, putting it on the basis of a judgment of a competent domestic court, certified as such by the executive. It is a well-settled principle that judgments duly entered in a competent court having jurisdiction, duly certified to be such by the executive, are ubiquitous in their effect; and eminently is this the case with judgments of naturalization, which are bound up so intimately with national honor and polity. Hence it is that it has been uniformly held by this Department that while, on the application of a foreign government, it will cause inquiries to be made as to whether a judgment of naturalization was improvidently granted, and while it will never permit itself to grant protection based upon a naturalization decree which is shown to it to be fraudulent, it will not recognize a foreign government's right to impeach such decrees. When set up by it as the basis of its action towards a foreign state, it can not recognize the right of any foreign executive or court to determine as to their validity. That determination must be made, so far as concerns foreign governments, exclusively by itself.

Whether, in case the validity of naturalization in the last-mentioned cases is admitted, the person so naturalized is subject to penalties on returning to France for offenses or neglects of duty with which he was chargeable before he left France, is a question dependent upon many conditions which it is not necessary here to discuss, and which can only be determined in relation to each particular case as it arises.

It will be your duty, therefore, to inform Mr. Flourens that the Government of the United States holds that a decree of naturalization granted by it to a French citizen is not open to impeachment by the French Government, either in its executive or its judicial branch, and that if it is alleged to have been improvidently issued the remedy is by

application to this Department. You will further say that if the subjection to forced military service of the citizens whose case you report is based upon an assumption that they are *not* citizens of the United States, this Department asks for their immediate release, and for a proper compensation for the losses which they have received by such detention.

A further consideration, which might be urged upon the French Government in relation to this subject is the great importance which this Department attaches to summary action in these cases. It can not be admitted that American citizens, not charged with any crime, should be detained under arrest for even a single day after their proofs of citizenship have been presented. In cases like this the United States can never admit the propriety of submitting to the ordinary delays of judicial action. The redress which it thus asks the United States Government, when appealed to by foreign Governments under similar circumstances, has always been promptly given.

In our late civil war, when the Government of the United States was compelled to use every just effort to put down the insurrection by which its existence was assailed, and when in the application of its conscription acts it was compelled to consider many cases of aliens on its shores, there is not a single instance in which an alien was held to military duty when his Government called for his release. There are very few naturalized citizens of the United States of French birth in France. Of their aid as soldiers, France, with her immense resources, can not claim the need.

Again, the trade between France and the United States, so far as concerns the selection of French goods, is largely conducted by merchants of French birth, naturalized in the United States, who are in the habit of paying frequent visits to France in the course of their business, for the purpose of placing orders with French manufacturers. Yet, those very men, if the principle I protest against is applied, will be shut off from the visits to France, which their peculiar gifts have enabled them to use with results so beneficial both to France and the United States. Therefore I can not but think that France, who now accepts as fully as does the United States those principles of liberty of which the right of expatriation is part, will not, in view both of her past and her present relations to the United States, take a position conflicting with these free principles, with the business interests of both countries, with international comity, and with a system on which the Government of the United States is based.

You will call on the minister for foreign affairs, read this instruction to him, and, should he desire it, leave a copy.

I am, etc.,

T. F. BAYARD.

No. 365.

Mr. McLane to Mr. Bayard.

No. 551.] LEGATION OF THE UNITED STATES,
Paris, February 16, 1888. (Received February 27.)

SIR: Your No. 272 of November 18 communicated to me, at the request of the Postmaster General, two copies of a printed memorial, signed by prominent American merchants,* suggesting the propriety

* Printed in Foreign Relations, 1887, page 489.

of the general adoption of the policy of dispatching all foreign mails by the fastest steamers. In the interest of the facilitation of commercial intercourse I was directed to bring this memorial to the notice of the French Government, and I did so immediately upon receiving it. I am now in possession of a note from Mr. Flourens stating, in behalf of the French postal department, that the policy referred to is the one followed by that department.

I inclose a copy and translation of Mr. Flourens's note herewith.

I have the honor to be, etc.,

ROBERT M. MCLANE.

[Inclosure in No. 551.]

Mr. Flourens to Mr. McLane.

(Translation.)

PARIS, *February* 11, 1888.

SIR: I had taken care to transmit to the president of the council minister of finances the memorandum you kindly sent me on the 9th of December last, by which a great number of notable merchants from the large cities of the United States call the attention of different European powers to the propriety of using for the expedition of the mails, as the United States Post-Office does, the fastest steamers, without any regard to the nationality of the ship or to any other consideration.

In acknowledging reception of this communication Mr. Tirard remarks that his department has always concerned itself with the means of insuring the most rapid transmission of the mails intended for abroad. Thus the French administration sends regularly the mail bags to the United States, five times a week by all steamers, whatever their nationality may be, which seem to offer any advantage to postal relations.

My colleague adds that the expedition of the normal mail, addressed to the New York office, is regulated at present in such a way as to secure successive departures through the lines considered to be the most regular and most rapid, viz:

DEPARTURES FROM PARIS.

Tuesday evening by the Inman Line. (English.)
Wednesday morning by the White Star Line. (English.)
Wednesday evening by the North (G.) Lloyd. (German.)
Friday evening by the Transatlantic Line. (French.)
Saturday morning by the Cunard Line.

Besides, as Mr. Tirard remarks, mail matter bearing the indication of any other ship (Guion Line, Hamburg Line, etc.) is always forwarded in conformity with the desire expressed by the sender.

I have the honor, sir, to communicate this information to you, which you will perhaps judge to be of such a character as will interest the Post-Office Department of the United States.

Receive, etc.,

FLOURENS.

No. 366.

Mr. Bayard to Mr. McLane.

No. 302.] DEPARTMENT OF STATE,
Washington, February 24, 1888.

SIR: I inclose for your information copy of a letter lately received from Senator William M. Stewart, with its inclosure, being a letter addressed to him and Senator Jones, jointly, by Governor Stevenson, of Nevada, and of my reply to Senator Stewart of this date, all having reference to the case of Mr. Fruchier, an American citizen constrained to service in the armies of France, touching which you were instructed

by the Department's No. 217, of April 16, 1887, and No. 268, of October 20, 1887.

In my reply to the Senator you will observe that I have briefly summarized the position laid down on behalf of this Government touching the right of expatriation, and the sufficiency of the judicial decree of the competent tribunal in proof of the fact, as set forth in my No. 298 of the 15th instant.

The case of Mr. Fruchier seems to be well adapted to test the question now in controversy, and, with a view to completing the record here, I have to request you to send me transcripts of your correspondence with the French Government in relation thereto, the result of which you communicated to me by your No. 495, of 4th November last.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 302.]

Mr. Stewart to Mr. Bayard.

UNITED STATES SENATE,
Washington, D. C. February 18, 1888. (Received February 20.)

SIR: Inclosed find letter from the governor of Nevada, C. C. Stevenson, in regard to John Fruchier, an American citizen, who was pressed into the military service of France some fourteen months ago while on a visit to relatives. It seems to me to be a matter requiring the attention of your Department. Please inform me what has been done in the matter.

Yours, etc.,

WM. M. STEWART.

[Inclosure 2 in No. 302.]

Governor Stevenson to Mr. Stewart, Mr. Jones, and Mr. Woodburn.

CARSON CITY, NEV., *February* 7, 1888.

GENTLEMEN: John Fruchier, a native of France, was naturalized in the district court of this State, in Douglas County. Ex-State Senator H. F. Dangberg and Assemblyman H. Springmeyer were his witnesses when he obtained his final papers; and he was in Mr. Dangberg's employ as a farm hand some years.

In November, 1886, he concluded to visit his relatives in France, and arrived there in December, 1886, when he was at once pressed into the military service of France, and there remains.

My attention was called to this matter by Mr. Dangberg last March, and on the 24th of that month I wrote to Hon. T. F. Bayard, Secretary of State, and (inclosing a certified copy of Mr. Fruchier's naturalization certificate and the affidavits of Messrs. Dangberg and Springmeyer as to identity) laid the matter before him as fully as it was in my power to do, and urged that appropriate action be taken in the premises. On April 16, 1887, Acting Secretary A. A. Adee wrote me that the papers had been received, and "Mr. McLane, our minister at Paris, had been instructed to bring the matter to the attention of the French Government with a view to securing the discharge of Mr. Fruchier from the French army if possible."

I wrote Mr. Bayard on the subject again on June 9, and still again on October 11, 1887, but the above is all the definite information received to date from Mr. Bayard.

Mr. Fruchier has many and warm friends in Nevada, who naturally feel indignant that he, an American citizen, has been now nearly fourteen months in the constrained military service of a foreign government.

Will you not, gentlemen, look into this matter, and see if something can be done for our wronged fellow-citizen?

I am, etc.,

C. C. STEVENSON,
Governor.

Hons. W. M. STEWART and
JOHN P. JONES, *U. S. Senate*, and
Hon. WM. WOODBURN,
House of Representatives,
Washington, D. C.

[Inclosure 3 in No. 302.]

Mr. Bayard to Mr. Stewart.

DEPARTMENT OF STATE,
Washington, February 24, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th instant, inclosing a communication addressed to you and your colleague, Senator Jones, jointly, by the governor of the State of Nevada, relative to the case of John Fruchier, a naturalized citizen of the United States, of French birth, who, on returning to France on a visit to his relatives some fourteen months ago, was pressed into the military service of France.

The case having been brought to the attention of this Department by Governor Stevenson's letter of March 24, the papers submitted by him, including certified copy of the decree of the competent court of record naturalizing Mr. Fruchier, were sent to the United States minister at Paris, with instructions to effect the release of Mr. Fruchier from military service, if possible.

On the 20th of October last, not having heard from Mr. McLane on the subject, and in view of Governor Stevenson's letter of October 11, I called upon the legation in Paris to report its action in the premises and the result, and received a reply from our minister, dated November 4, 1887, stating that, as usual in such cases, the French Government had declined to take any action in the matter on the ground that a Frenchman who claims to have acquired foreign citizenship can not be discharged from the military rolls until he produces a judgment of a French civil court recognizing that he has lost his original nationality.

The case of Mr. Fruchier belongs to a class which has for some years been the occasion of controversy with the Government of France. The nature of the French claim in this regard is reviewed by Mr. Vignaud, then chargé d'affaires *ad interim*, in a dispatch No. 665, of November 13, 1884, printed in the volume of Foreign Relations for that year, pages 176, 182.

The United States minister at Paris has recently, under the Department's sanction and approval, addressed the French Government, taking the ground that, according to the often enunciated doctrine of this country, a certificate of naturalization is of force ubiquitous by and sufficient evidence of the judicial decree it sets forth, and its validity is not open to impeachment by the French Government, either in its executive or judicial branch; and that if it is alleged to have been improvidently issued the remedy is to be sought through the diplomatic channel.

Whether in this class of cases, where validity of the individual's naturalization is admitted, he is subject to any penalty, on returning to France, for offenses or neglects of duty with which he may have been chargeable before he left France, is a question dependent upon many conditions, which can only be determined in relation to each particular case as it arises. In Mr. Fruchier's case the opportunity for examination and discussion of such conditions has not been afforded. In its initial and most important stage it is amply covered in the pending controversy, and Mr. McLane will be instructed to bear it especially in mind and, if necessary, make it a test issue in common with others of the same nature.

I have, etc.,

T. F. BAYARD.

No. 367.

Mr. Bayard to Mr. McLane.

No. 303.] DEPARTMENT OF STATE,
Washington, February 24, 1888.

SIR: Your interesting and timely dispatch No. 545, relative to the present condition of the pork question in France, has been received, and your course relative to the matter is approved by the Department.

I am, etc.,

T. F. BAYARD.

No. 368.

Mr. McLane to Mr. Bayard.

No. 554.] LEGATION OF THE UNITED STATES,
Paris, February 24, 1888. (Received March 6.)

SIR: Referring to your No. 287 of January 12, 1888, instructing me to obtain from the French foreign office a statement of the relations now subsisting between the French Republic and the King of Johanna (or Anjouan), one of the Comoro Islands, I inclose a copy and a translation of a note from Mr. Flourens, stating that the French Republic has assumed the protectorate of that island by virtue of two treaties, signed April 21, 1886, and October 15, 1887. A copy and a translation of those treaties are also herewith inclosed.

I have, etc.,

ROBERT M. MCLANE

[Inclosure 1 in No. 554.]

Mr. Flourens to Mr. McLane.

PARIS, *February* 21, 1888.

SIR: You were good enough by your letter of the 30th January last to point out to me the interest that your Government would have in knowing the exact state of the relations which the Government of the Republic entertain at present with the Sultan of Anjouan, and you expressed the desire of having communicated to you the treaties concluded by France with that native chief, with the view of being exactly informed as to the rights reserved by these arrangements to American citizens residing in the Comoro Islands.

In order to respond to the desire which you were good enough to bring to my notice on this subject, I hasten to send you herewith copies of the text of the two treaties which were concluded with the Sultan of Anjouan the 21st April, 1886, and the 15th October, 1887, for the purpose of placing that island under the French protectorate.

Accept, etc.,

FLOURENS.

[Inclosure 2 in No. 554.]

Convention of April 21, 1886, *between the Sultan of Anjouan and the French Republic.*

The Government of the French Republic, duly represented by Mr. Gerville-Réache, commandant of Mayotte, and His Highness Aballah ben Sultan Salim, Sultan of Anjouan, intervening directly, anxious for the development and for the prosperity of the Sultanate of Anjouan, have decided to consecrate by the following conventions the relations of friendship which have existed for a long time between them and to assure the preponderance of France at Anjouan.

ART. 1. His Highness, together with his council of ministers, declares that he places the Island of Anjouan under the protection of France. He binds himself and his successors never to make a treaty with any other nation and to grant no privileges to foreigners without the consent of France.

ART. 2. The subjects of his highness shall with entire freedom reside, travel, and trade in France or in French colonies on the same conditions as French colonists; on the other hand, Frenchmen shall enjoy the same freedom in the States of his highness.

ART. 3. The Sultan agrees to furnish to French business men who might desire to establish themselves at Anjouan the lands of which they shall have need for their operations within the limit of the domain over which he has power of disposal.

ART. 4. Difficulties which may arise between French citizens and Anjouanese shall be settled by French tribunals.

ART. 5. The rights of foreigners at present established in the island remain reserved without in any case the French Government being responsible for the execution of previous deeds and conventions. If there should be disputes on the subject of these deeds and conventions, the Government of the Republic shall be taken for arbitrator.

ART. 6. Anjouanese vessels shall be treated in French ports as French ships. The

same advantages shall be granted to the ships of the Republic which shall enter a port dependent upon the States of his highness.

ART. 7. In the view of assuring the tranquillity of Anjouan and of allowing the regular succession to the throne, in conformity to the usages of the country, the Sultan chooses for his successor the Prince Salim ben Abdallah, his eldest son, and in case of the death of the latter before his accession to the sultanate, of Abdallah ben Salim, eldest son of Salim. Finally, the French Government shall regulate the succession to the throne in case that the provisions made by his highness can not have their full effect and that there should be no direct and immediate heir in his family.

ART. 8. The Sultan promises to continue to assure to each of his brothers the means of existence.

ART. 9. To put an end to the civil wars which for long years desolated Anjouan, the French Government and his highness declare that every person who shall have taken up arms against a constituted power shall be considered as a rebel, and tried according to the laws of the country.

ART. 10. The Government of the Republic engages itself not to give asylum to any subject of Anjouan who, recognized by it as in state of rebellion, may come to seek refuge in France, at Mayotte, or in any other French possession.

ART. 11. His highness binds himself not to carry arms in any of the Comoro Islands, and not to lend aid and assistance to anybody without the approval of the commandant of Mayotte.

ART. 12. The Sultan declares that there does not exist between his Kingdom and any other power any act which could vitiate the character of the present convention.

ART. 13. The Sultan pledges himself to take the necessary steps for the abolition of slavery in his States.

ART. 14. The present contract, which shall be definite after the approval of the Government of the Republic, has been signed in presence, on one side, of Messrs. Brion, naval lieutenant, commanding the *Jackal;* de Lestrac, sous-commissaire of the navy; Gauthier and Lesquivet, ensigns; Deslandes, physician of second class of the navy; on the other side, of Salim ben Sultan Abdallah, Mohammed ben Sultan Salim, Saïd Outonmani ben Sultan Salim, Saïd Ali ben Sultan Salim, Abdallah Mohomed, dit Diamond, prime minister. (The names of the other ministers follow.)

[Inclosure 3 in No. 554.]

Convention of October 15, 1887, *between the Sultan of Anjouan and the French Republic.*

The Government of the French Republic, duly represented by Mr. Edward Hibou, commandant of Mayotte, P. I. representative of the French protectorate in the Comoro Islands, and His Highness Abdallah ben Sultan Salim, Sultan of Anjouan, intervening directly, have recognized as definitive the provisional conventions agreed upon on the date of the 8th of October, 1887, between Mr. Theodore Troupel, resident of France at Anjouan, acting pursuant to the instructions of the commandant of Mayotte, and His Highness Abdallah ben Sultan Salim, the tenor of which is as follows:

ART. 1. The conventions signed on the 26th of March, 1887, and exchanged between Captain Dorlodot des Essarts, commanding the naval division of the Indian Ocean, and His Highness Abdallah ben Sultan Salim, are annulled and can in no case be appealed to.

ART. 2. The treaty of the 21st April, 1886 (French text) is definitely recognized and adopted, except article 4 of said act, which is replaced by article 4 as given below, and with the addition of articles 3 and 5 of the present treaty.

ART. 3. The president shall be accompanied by his secretaries, interpreters, or other employés necessary to insure his service.

ART. 4. Disputes of any kind which may arise between French citizens residing at Anjouan and Anjouanese shall be tried and settled by a court composed of the resident or his delegate president, of a French assessor, and of an Anjouanese assessor.

ART. 5. A French school directed by one or several lay instructors is founded at Montsamondou by the French Government.

The school establishment shall be provided, paid, and kept up by His Highness Abdallah ben Sultan Salim.

The present treaty, which shall be definitive after the approval of the Government of the Republic, has been signed in triplicate at the palace of Bambao the 15th of October, 1887.

No. 369.

Mr. Bayard to Mr. McLane.

No. 306.] DEPARTMENT OF STATE,
Washington, March 1, 1888.

SIR: With reference to your despatch No. 550, of the 15th ultimo, relative to the legislation by this Government stipulated for by article 12 of the international convention for the protection of submarine cables, I now inclose herewith, for official communication to the French Government, the text of the act of Congress approved February 29, 1888, which contains the required provisions for the protection of submarine cables.

I also inclose a copy of the President's ratification of the declaration and final protocol of the international convention for the protection of submarine cables, which I will thank you to transmit to the foreign office, to be deposited with the other instruments relating to the subject.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 306—Public—No. 14.]

AN ACT to carry into effect the International Convention of the fourteenth of March, eighteen hundred and eighty-four, for the protection of submarine cables.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who shall willfuly *and wrongfully* break or injure, or attempt to break or injure, or who shall in any manner procure, counsel, aid, abet, or be accessory to such breaking or injury, or attempt to break or injure, a submarine cable, in such manner as to interrupt or embarrass, in whole or in part, telegraphic communication, shall be guilty of a misdemeanor, and, on conviction thereof, shall be liable to imprisonment for a term not exceeding two years, or to a fine not exceeding five thousand dollars, or to both fine and imprisonment, at the discretion of the court.

SEC. 2. That any person who by culpable negligence shall break or injure a submarine cable in such manner as to interrupt or embarrass, in whole or in part, telegraphic communication, shall be guilty of a misdemeanor, and, on conviction thereof, shall be liable to imprisonment for a term not exceeding three months, or to a fine not exceeding five hundred dollars, or to both fine and imprisonment, at the discretion of the court.

SEC. 3. That the provisions of the foregoing sections shall not apply to a person who breaks or injures a cable in an effort to save the life or limb of himself or of any other person, or to save his own or any other vessel: *Provided,* That he takes reasonable precautions to avoid such breaking or injury.

SEC. 4. That the master of any vessel which, while engaged in laying or repairing submarine cables, shall fail to observe the rules concerning signals that have been or shall hereafter be adopted by the parties to the convention with a view to preventing collisions at sea; or the master of any vessel that, perceiving, or being able to perceive the said signals displayed upou a telegraph ship engaged in repairing a cable, shall not withdraw to or keep at a distance of at least one nautical mile; or the master of any vessel that seeing or being able to see buoys intended to mark the position of a cable when being laid or when out of order or broken, shall not keep at a distance of at least a quarter of a nautical mile, shall be guilty of a misdemeanor, and on conviction thereof, shall be liable to imprisonment for a term not exceeding one month, or to a fine of not exceeding five hundred dollars.

SEC. 5. That the master of any fishing vessel who shall not keep his implements or nets at a distance of at least one nautical mile from a vessel engaged in laying or repairing a cable; or the master of any fishing vessel who shall not keep his implements or nets at a distance of at least a quarter of a nautical mile from a buoy or buoys intended to mark the position of a cable when being laid or when out of order or broken, shall be guilty of a misdemeanor, and on conviction thereof, shall be liable to imprisonment for a term not exceeding ten days, or to a fine not exceeding two hundred and fifty dollars, or to both such fine and imprisonment, at the discretion of the court: *Provided, however,* That fishing vessels, on perceiving or being able to perceive

the said signals displayed on a telegraph ship, shall be allowed such time as may be necessary to obey the notice thus given; not exceeding twenty-four hours, during which period no obstacle shall be placed in the way of their operations.

SEC. 6. That for the purpose of carrying into effect the convention, a person commanding a ship of war of the United States or of any foreign state for the time being bound by the convention, or a ship specially commissioned by the Government of the United States or by the Government of such foreign state, may exercise and perform the duties vested in and imposed on such officer by the convention.

SEC. 7. That any person having the custody of the papers necessary for the preparation of the statements provided for in article ten of the convention who shall refuse to exhibit them, or shall violently resist persons having authority according to article ten of said convention to draw up statements of facts in the exercise of their functions, shall be guilty of a misdemeanor, and on conviction thereof shall be liable to imprisonment not exceeding two years, or to a fine not exceeding five thousand dollars, or to both fine and imprisonment, at the discretion of the court.

SEC. 8. That the penalties provided in this act for the breaking or injury of a submarine cable shall not be a bar to a suit for damages on account of such breaking or injury.

SEC. 9. That when an offense against this act shall have been committed by means of a vessel, or of any boat belonging to a vessel, the master of such vessel shall, unless some other person is shown to have been in charge of and navigating such vessel or boat, be deemed to have been in charge of and navigating the same, and be liable to be punished accordingly.

SEC. 10. That unless the context of this act otherwise requires, the term "vessel" shall be taken to mean every description of vessel used in navigation, in whatever way it is propelled; the term "master" shall be taken to include every person having command or charge of a vessel; and the term "person" to include a body of persons, corporate or incorporate. The term "convention" shall be taken to mean the International Convention for the Protection of Submarine Cables, made at Paris on the fourteenth day of May, eighteen hundred and eighty-four, and proclaimed by the President of the United States on the twenty-second day of May, eighteen hundred and eighty-five.

SEC. 11. That the provisions of the Revised Statutes from section forty-three hundred to section forty-three hundred and five, inclusive, for the summary trial of offenses against the navigation laws of the United States, shall extend to the trial of offenses against the provisions of sections four and five of this act.

SEC. 12. That the provisions of this act shall be held to apply only to cables to which the convention for the time being applies.

SEC. 13. That the district courts of the United States shall have jurisdiction over all offenses against this act and of all suits of a civil nature arising thereunder, whether the infraction complained of shall have been committed within the territorial waters of the United States or outside of the said waters: *Provided*, That in case such infraction is committed outside of the territorial waters of the United States the vessel on board of which it has been committed is a vessel of the United States. From the decrees and judgments of the district courts in actions and suits arising under this act appeals and writs of error shall be allowed as now provided by law in other cases. Criminal actions and proceedings for a violation of the provisions of this act shall be commenced and prosecuted in the district court for the district within which the offense was committed, and when not committed within any judicial district, then in the district court for the district within which the offender may be found; and suits of a civil nature may be commenced in the district court for any district within which the defendant may be found and shall be served with process.

Approved, February 29, 1888.

No. 370.

Mr. McLane to Mr. Bayard.

No. 560.] LEGATION OF THE UNITED STATES,
Paris, March 2, 1888. (Received March 13.)

SIR: I have received your No. 298, of February 15, with reference to American citizens of French parentage summoned to perform military service in France, and I have complied with your instructions by calling on Mr. Flourens and by leaving with him a copy of your dispatch, which he promised to read with attention.

I have pressed upon him the point made by you that if a citizen of the United States is subjected to forced military service on the assumption that he is not such a citizen, he must be released and a compensation given him for the loss he may have incurred through such detention.

The two American citizens, however, now in the French army, Arbios and Fruchier, are not detained on the ground that they are "not" American citizens, but on the ground that the statement of my Government or mine to that effect is not sufficient, no evidence of such a fact being satisfactory to the French authorities but a judgment of a French court of justice. Practically, therefore, the one question runs into the other, yet your dispatch is subject to the construction that the demand for an immediate release is confined to the single contingency that their retention in the service is based upon an assumption that they are not citizens.

My dispatch to Mr. Flourens, a copy of which I sent you, had no other object but to remonstrate against this pretension of the French Government to compel me, or the parties interested, to go before a court of justice to furnish evidence of a fact which is already established by my official declaration. In this position I am fully sustained by your dispatch, but it may be doubted whether it goes as far as to authorize me to make a demand for immediate release and pecuniary compensation in cases like those of Arbios and Fruchier, who are held subject to a judicial decision as to their citizenship. At all events I am afraid that Mr. Flourens will so construe your dispatch, and it is for this reason, and to avoid the possibility of embarrassing you, that I call your attention to the distinction here taken, and also to the further fact that these two men who are now in the French military service will be detained there until released by a French court of justice upon their own solicitation.

I have no observation to make as to the first phase of fact treated in your dispatch to me, "that of natural-born citizens of the United States, not of French parentage," nor did I invite Mr. Flourens to consider that point, as in such cases, as you will observe, "no question of military service in France could arise."

I have, etc.,

ROBERT M. MCLANE.

No. 371.

Mr. Bayard to Mr. McLane.

No. 308.] DEPARTMENT OF STATE,
Washington, March 6, 1888.

SIR: Your dispatch, No. 549, of the 14th ultimo, relative to the application of Messrs. Black and King, of New York City, to have certain letters rogatory executed by the civil tribunal of the first instance at Paris, and to the request of the French foreign office for information touching the execution of like documents in the United States, has been received.

I will thank you to inform the French Government that letters rogatory from courts of foreign countries are executed in our courts under the provisions of the statutes of the United States, as explained in the Department circular of March 25, 1887, copies of which are herewith inclosed for communication to the foreign office.

I am, etc.,

T. F. BAYARD

[Inclosure in No. 308.]

DEPARTMENT OF STATE,
Washington, March 25, 1887.

To the diplomatic and consular officers of the United States:

Letters rogatory for the purpose of taking the testimony of persons residing in the United States, which may be material in suits pending in the courts of foreign countries, are frequently sent to this Department, usually with a note from the minister for foreign affairs of the foreign country or from its diplomatic representative here, requesting that the business may be attended to. It is not, however, the province of the Department of State to dispose of matters of this kind. Frequently witnesses whose testimony is sought reside in places far from this city, rendering it impracticable to have the testimony taken within the time at which it is required in order to make it available.

It is, therefore, deemed advisable to issue this circular, to which are appended the provisions of the Revised Statutes of the United States regulating the taking of testimony in such cases. Other information upon the subject, which will be found useful to persons interested, is contained in the following

DIRECTIONS.

Both circuit and district courts of the United States are held in each of the States at the following points:

In Alabama, at Huntsville, Birmingham, Montgomery, and Mobile; in Arkansas, at Little Rock; in California, at San Francisco and Los Angeles; in Colorado, at Denver, Pueblo, and Del Norte; in Connecticut, at New Haven and Hartford; in Delaware, at Wilmington; in Florida, at Tallahassee, Pensacola, Jacksonville, Key West, and Tampa; in Georgia, at Atlanta, Savannah, and Macon; in Illinois, at Chicago, Springfield, and Cairo; in Indiana, at New Albany, Evansville, Indianapolis, and Fort Wayne; in Iowa, at Dubuque, Fort Dodge, Sioux City, Keokuk, Council Bluffs, and Des Moines; in Kansas, at Fort Scott, Leavenworth, and Topeka; in Kentucky, at Frankfort, Covington, Louisville, and Paducah; in Louisiana, at New Orleans, Opelousas, Alexandria, Shreveport, and Monroe; in Maine, at Portland; in Maryland, at Baltimore; in Massachusetts, at Boston; in Michigan, at Port Huron, Detroit, Grand Rapids, and Marquette; in Minnesota, at Saint Paul; in Mississippi, at Aberdeen, Oxford, and Jackson; in Missouri, at Saint Louis, Jefferson City, and Kansas City; in Nebraska, at Lincoln and Omaha; in Nevada, at Carson City; in New Hampshire, at Portsmouth and Concord; in New Jersey, at Trenton; in New York, at Canandaigua, Albany, Syracuse, Utica, New York, and Brooklyn; in North Carolina, at Raleigh, Greensborough, Statesville, Asheville, and Charlotte; in Ohio, at Cleveland, Toledo, Cincinnati, and Columbus; in Oregon, at Portland; in Pennsylvania, at Philadelphia, Erie, Pittsburgh, Williamsport, and Scranton; in Rhode Island, at Newport and Providence; in South Carolina, at Charleston and Columbia; in Tennessee, at Knoxville, Chattanooga, Nashville, Jackson, and Memphis; in Texas, at Graham, Dallas, Waco, Galveston, Tyler, Jefferson, Austin, San Antonio, Brownsville, and El Paso; in Vermont, at Burlington, Windsor, and Rutland; in Virginia, at Richmond, Alexandria, Norfolk, Lynchburgh, Abingdon, Harrisonburgh, and Danville; in West Virginia, circuit court at Parkersburgh, district court at Wheeling, Clarksburgh, and Charleston; in Wisconsin, at Milwaukee, Oshkosh, Madison, Eau Claire, and La Crosse.

In some of the States, district courts are held at other points in addition to those above specified.

The clerks of the courts of the United States are authorized to take depositions, and may be designated as commissioners for that purpose in letters rogatory, which, when returned, are to be used in the courts of foreign countries.

The letters rogatory may be addressed to the judge of either the circuit court of the United States for the State of ———, or the district court of the United States for the district of ——— (naming the State), praying the judge of that court to name and appoint the commissioner; or such letters may be addressed to the commissioner directly.

The letter or package should in all cases be directed to the clerk of the district or circuit court to which the letters rogatory are addressed. The clerk's office is at the place where the court holds its sessions.

I am, your obedient servant,

T. F. BAYARD.

SECTIONS OF THE REVISED STATUTES RELATING TO LETTERS ROGATORY.

SEC. 4071. The testimony of any witness residing within the United States, to be used in any suit for the recovery of money or property depending in any court in any foreign country with which the United States are at peace, and in which the government of such foreign country shall be a party or shall have an interest, may be obtained, to be used in such suit. If a commission or letters rogatory to take such testimony, together with specific written interrogatories, accompanying the same, and addressed to such witness, shall have been issued from the court in which such suit is pending, on producing the same before the district judge of any district where the witness resides or shall be found, and on due proof being made to such judge that the testimony of any witness is material to the party desiring the same, such judge shall issue a summons to such witness requiring him to appear before the officer or commissioner named in such commission or letters rogatory, to testify in such suit. And no witness shall be compelled to appear or to testify under this section except for the purpose of answering such interrogatories so issued and accompanying such commission or letters: *Provided*, That when counsel for all the parties attend the examination, they may consent that questions in addition to those accompanying the commission or letters rogatory may be put to the witness, unless the commission or letters rogatory exclude such additional interrogatories. The summons shall specify the time and place at which the witness is required to attend, which place shall be within one hundred miles of the place where the witness resides or shall be served with such summons.

SEC. 4072. No witness shall be required on such examination or any other, under letters rogatory, to make any disclosure or discovery which shall tend to criminate him either under the laws of the State or Territory within which such examination is had, or any other, or any foreign state.

SEC. 4073. If any person shall refuse or neglect to appear at the time and place mentioned in the summons issued, in accordance with section forty hundred and seventy-one, or if upon his appearance he shall refuse to testify, he shall be liable to the same penalties as would be incurred for a like offense on the trial of a suit in the district court of the United States.

SEC. 4074. Every witness who shall so appear and testify shall be allowed, and shall receive from the party at whose instance he shall have been summoned, the same fees and mileage as are allowed to witnesses in suits depending in the district courts of the United States.

SEC. 875. When any commission or letter rogatory, issued to take the testimony of any witness in a foreign country, in any suit in which the United States are parties or have an interest, is executed by the court or the commissioner to whom it is directed, it shall be returned by such court or commissioner to the minister or consul of the United States nearest the place where it is executed. On receiving the same, the said minister or consul shall indorse thereon a certificate, stating when and where the same was received, and that the said deposition is in the same condition as when he received it; and he shall thereupon transmit the said letter or commission, so executed and certified, by mail, to the clerk of the court from which the same issued, in the manner in which his official dispatches are transmitted to the Government. And the testimony of witnesses so taken and returned shall be read as evidence on the trial of the suit in which it was taken, without objection as to the method of returning the same. [When letters rogatory are addressed from any court of a foreign country to any circuit court of the United States, a commissioner of such circuit court designated by said court to make the examination of the witnesses mentioned in said letters, shall have power to compel the witnesses to appear and depose in the same manner as witnesses may be compelled to appear and testify in courts.]

No. 372.

Mr. McLane to Mr. Bayard.

No. 566.] LEGATION OF THE UNITED STATES,
Paris, March 7, 1888. (Received March 19.)

SIR: In compliance with the request expressed in your No. 302, of February 24, I send you copies of my note asking for the discharge of John Fruchier and of Mr. Flourens's reply, with a translation of the same. You will observe that this reply is almost word for word iden-

tical with the one made in the case of Arbios, a copy and a translation of which were forwarded with my No. 391, of April 14, 1887. Many other dispatches from the French office, couched in the same language, can be found in the correspondence of this legation with reference to American citizens of French origin called to perform military service in France, all of which have been duly forwarded and commented upon by this legation.

I agree with you that the case of Fruchier is one of those well adapted to test the question of the right of American citizens of French parentage to visit France without being subjected to forced military service. The question has been plainly and fairly put to the French Government in my note of January 11, to which no answer has yet been made, and in which, as you can see by referring to it, I have formally demanded the discharge of Fruchier and Arbios.

The copy of your No. 298, which I left with Mr. Flourens, has, I trust, strengthened my position; but, for the reasons stated in my No. 560, I did not feel myself authorized to make a new demand for the release of these two men, and until a reply is received to my demand of January 11 I do not believe that it is advisable to press the matter.

I have, etc.,

ROBERT M. McLANE.

[Inclosure 1 in No. 566.]

Mr. McLane to Mr. Flourens.

LEGATION OF THE UNITED STATES,
Paris, May 5, 1887.

SIR: My Government having been informed that John Fruchier, an American citizen, residing in the State of Nevada, has been arrested while traveling in France and incorporated in the French army, I am instructed to ask that your excellency will kindly take the necessary steps to liberate this American from French military service. John Fruchier was naturalized on the 16th of October, 1880. His arrest took place at St.-Martin-d'Entrennes (Alpes-Maritimes) on the 24th of December, 1886, and maintained until January 22, 1887. He was then conducted to Cahors and enrolled in the seventh regiment of infantry, second battallion, second company.

I avail, etc.,

ROBERT M. McLANE.

[Inclosure 2 in No. 566.—Translation.]

Mr. Flourens to Mr. McLane.

PARIS, *June* 14, 1887.

SIR: On the 5th May, you did me the honor of writing to me with the view of obtaining the release from military service of John Fruchier, French by origin, American by naturalization in 1880, who, having lately returned to our territory, was arrested and enrolled in the seventh regiment of infantry.

The minister of war, to whom I hastened to transmit this request, informs me that the interested party, after having undergone the punishment of eight days of prison to which he was condemned on the charge of disobedience to orders, the 14th January last, by the court-martial of the fifteenth army corps has been in fact enrolled under our flag. General Ferron adds that the claim made in Fruchier's behalf raises a question of personal status which the administration is not competent to decide and which the civil courts are alone in a position to settle; this young man, therefore, can only be struck off our military rolls upon the production by him of a judgment rendered by a French court of justice and recognizing in him the status of a foreigner.

Accept, etc.,

FLOURENS.

No. 373.

Mr. McLane to Mr. Bayard.

No. 573.] LEGATION OF THE UNITED STATES,
Paris, March 23, 1888. (Received April 2.)

SIR: Referring again to your No. 302, under date February 24, inclosing for my information copy of a letter to you from Senator William M. Stewart, with its inclosures, "all having reference to the case of Mr. Fruchier, an American citizen constrained to service in the armies of France," together with a copy of your reply to Mr. Stewart's letter, I have to note that on February 15 I addressed Mr. Flourens a personal note, informing him that you had again called my attention to the case of Fruchier, which you thought was a proper case to test the principle at issue between the two Governments, and that I had called on him the day before to urge him in person to give me, as early as his convenience would permit, an answer to my note of January 11.

Although I had advised you that I should not further discuss the matter with him until I was in possession of his reply to this note, I changed my mind, foreseeing that this would be delayed longer than I expected.

Day before yesterday, it being the regular day of reception of the diplomatic corps at the foreign office, I called again and drew his attention to the importance of disposing promptly of Fruchier's case, and urged upon him the immediate release of Fruchier and Arbios from the military service on my affirmation that they were American citizens, and that they ought not to be held in the army while the two Governments were engaged in the discussion of the general principles involved. Mr. Flourens in reply promised me to recommend the release of Fruchier, but he again referred to the difficulty he had encountered by reason of the regulations which had been established by the war department submitting such cases to civil courts, and which have been in force for a long while, and which were now maintained as against all soldiers in the French army who claimed to be subjects or citizens of some other country. He promised further to bring the case to the attention of the council of ministers at an early day.

I have, etc.,

ROBERT M. MCLANE.

No. 374.

Mr. McLane to Mr. Bayard.

[Extract.]

No. 575.] LEGATION OF THE UNITED STATES,
Paris, March 29, 1888. (Received April 10.)

SIR: With a view of dispelling any misunderstanding with reference to the Boulanger incident, I sent you on the 19th instant a telegram to the effect that the Boulanger incident had been considerably exaggerated by the public press, that the Government would be amply sustained in its determination to rebuke him, and that the tendency of the incident was to augment the dissensions already apparent among the Republicans of France.

The press continued to exaggerate the original incident itself, and gave to it an exclusively partisan character, the Government being strongly urged to inflict further punishment upon General Boulanger, and if the political agitation connected with his name was continued, to strike him from the army rolls. To these counsels the Government yielded an apparently cordial consent, and summoned what is called a "conseil d'enquête," somewhat similar to our military courts of inquiry, to which was submitted two principal points of inquiry, to wit, whether the publication of his confidential letter to the minister of war and his leaving the headquarters of the army corps, from the command of which he had been relieved, without the permission of the minister of war, were not violations of military discipline. All other grounds of complaint against him were withheld, and the court of inquiry rendered a prompt judgment in the affirmative by a unanimous vote. The effect of such judgment under existing laws authorizes the President to retire him from active service, the law leaving him, however, with his pension, and subject to the call of the Government for military service at any time during the next five years.

Although the Chamber of Deputies was well-nigh unanimous in sustaining the Government in its original action against General Boulanger, it was manifest that a large section of the Republican party, while it condemned General Boulanger's violation of military discipline and the encouragement he gave to those who sought a popular demonstration in his behalf at the off elections, nevertheless desired to protect him against the severity of the Government and of that section of the chamber to which it was specially allied, known as the "opportunists," of which Mr. Ferry is the recognized chief.

This sympathy has greatly increased since the judgment of the court of inquiry was rendered, and although General Boulanger may not immediately profit by it, and though he may still continue to direct a political agitation before the country independent of all parties, the ministry itself will find it impossible to remain in power. At least two hundred members of the chamber are now engaged in conference to organize a parliamentary assault upon it as soon as the vote is taken on the annual appropriation bill called the "budget." It seems to me that this assault will be successful, and the dissension in the Republican party in and out of the chamber to which I referred in my telegram will be complete, for the assault upon the ministry will have reference not only to its policy in the administration of the Government but to proposed reforms in the constitution itself. Such an agitation in the chambers will be accompanied by a greater agitation in the country at large by the "reformers" of the Republican party, as they already call themselves, and I think these latter will be closely associated with the friends of General Boulanger, and the general himself seems well disposed to direct such an agitation. It is my opinion that he is far more likely to pursue this policy and maintain his association with the Republicans than to yield to either monarchical or imperial solicitations. Meanwhile the anticipations of my telegram as to the dissension in the Republican party are more than realized, and I know no one of any party at this moment who pretends even to foresee its effect upon those who are in possession of the Government.

I am, etc.,

ROBERT M. MCLANE.

No. 375.

Mr. McLane to Mr. Bayard.

[Extracts.]

No. 579.] LEGATION OF THE UNITED STATES,
Paris, April 6, 1888. (Received April 16.)

SIR: I think I may fully confirm the views submitted in my No. 575, of March 29 last. Those in charge of the political canvass in support of General Boulanger profess most earnestly their intention to respect the constitutional laws in their efforts to revise the same, but neither of the great sections of the Republican party is willing to support him or assume any responsibility in his behalf, nor can I perceive that the monarchical party as such confide in him. Nevertheless, he has very decided partisans heretofore connected with the right as well as the left in the Chamber of Deputies, who profess an intention to secure his election as an Independent Republican. General Boulanger himself professes to consider the Republic as a great force politically, and as the only form of Government which can give France strength and independence, and this profession he can well make in view of the weakness of those in or out of the chamber who seek to restore either the monarchy or the empire.

It is difficult for one unaccustomed to the exaggeration of the French press to understand its violence and misrepresentation. Mr. Floquet, in accepting the responsibility of forming a cabinet, did only what Mr. de Freycinet and Mr. Goblet in turn attempted during the past year, to wit, to unite in the same cabinet four members of each section of the Republican party as represented in the chamber, with a tendency to a liberal, if not a radical, solution of the political questions now at issue. Mr. Rouvier and Mr. Tirard in turn attempted the same concentration so far as individuals were concerned, but with a tendency to prevent the radical solution of those questions, and secure what might be termed a conservative or moderate adjustment thereof.

Mr. Floquet, however, is credited with great political tact and ability, and for some time past it has been pretty well understood that he would be the successor of Mr. Tirard, and that he would succeed in holding power long enough to dissolve the chamber or superintend the elections at the constitutional period of dissolution in 1889. I account for the unusual and extraordinary violence and exaggeration of the opposition press by their fear of such success on his part, and by their desire to unite the moderate Republicans and monarchists in support of a conservative ministry prior to such dissolution.

The selection by Mr. Floquet of Mr. de Freycinet and Mr. Goblet together with Mr. Ricard and Mr. Loubet is quite sufficient to satisfy any impartial observer that he desired to concentrate the support of the entire Republican party, and all four of these gentlemen accepted office under him; two of them, Mr. Ricard and Mr. Loubet, withdrew because of their dissatisfaction with the programme submitted for their consideration, but it was not to the principle thereof they objected and Mr. Rouvier, a former president of the council and minister of finance, who was invited by Mr. Floquet to form part of his cabinet, declined to do so more on personal than political grounds. Indeed his own programme submitted to the chamber in May last covered substantially all the points involved and now at issue, and Mr. Floquet has replaced these three gentlemen with men of like opinion and equal merits. I do not

therefore think it impossible that even the three gentlemen to whom I have referred, and certainly some of their friends, will support Mr. Floquet when the chamber meets on the 20th of April. This is by no means the general opinion; but I am accustomed to find the public men of this country, though vehement and impulsive, very reasonable, and persistent in their political action, and I do not anticipate any material diversion from the Republican party in support of a ministry dependent upon or in coalition with the Monarchists.

Entertaining this view I have frequently noted to you my conviction that the dissolution of the chamber and an appeal to the country would be the final means adopted to secure support for a Republican ministry, and it is this same conviction which induces me to think that General Boulanger himself will not undertake the direction of any revolutionary movement against the Government, but will advocate the policy of revision of the constitutional laws and a dissolution of the chamber in conformity therewith.

I have, etc.,

ROBERT M. MCLANE.

No. 376.

Mr. Bayard to Mr. McLane.

No. 320.] DEPARTMENT OF STATE,
Washington, April 6, 1888.

SIR: Referring to your No. 554 of February 24 last, inclosing copies of the treaties between France and Anjouan (Johanna) by which the former has assumed a protectorate over the latter and has established a resident in the island, I call your attention to article 5 of the treaty of April 21, 1886, which reads as follows in your translation:

> The rights of foreigners at present established in the island remain reserved without in any case the French Government being responsible for the execution of previous *deeds* and *conventions* (faits et conventions). If there should be disputes on the subject of these *deeds* and *conventions*, the Government of the Republic shall be taken as arbitrator.

There is at present an American citizen resident in the island of Johanna, Dr. B. F. Wilson, who now claims damages against the Sultan for injuries growing out of violation by the Sultan of contracts entered into between them. At various times, beginning with 1871, contracts were made by which the Sultan was to furnish certain labor to enable Dr. Wilson to work a sugar plantation called Patsy. In 1878, a lease for thirty years was granted, the Sultan furnishing certain slave labor and permitting his free subjects to work for hire. Under this lease Dr. Wilson expended large sums of money, and the plantation was rapidly improving, the production of sugar increasing each year from 1879 till 1882, when difficulties arose between the Sultan and Dr. Wilson.

The latter was subjected to a series of annoyances and violations of contract, the Sultan taking away his slaves, terrorizing the freedmen so that they refused to work, sending soldiers to kill Dr. Wilson, firing into his house, and destroying a small vessel owned by him. Dr. Wilson claims that his sugar crop, during the years 1882 and 1883 was much diminished, and the estate so injured that he has never since been able to increase its production as he would have done but for this interference; and in this he is sustained by independent and apparently impartial testimony.

It is alleged in reply that Dr. Wilson had aided and abetted the Sultan's brother, Prince Mohammed, who in the year 1882 was in a state of open rebellion against his authority. This Dr. Wilson denies, and his denial is supported by the testimony of Prince Mohammed's principal officer in that rebellion, who declares that although Dr. Wilson's assistance was solicited by the rebels, it was distinctly and positively refused.

It would seem therefore that Dr. Wilson has been seriously injured in his planting operations by the Sultan's violation of his contract; that even his life has been in jeopardy, and that a claim for damages properly arises. The Sultan, who had corresponded directly with this Department, was so informed, but he has not replied to this communication. I am of opinion that the case is such as may be submitted to the arbitration of the French Government, under the article of the treaty of 1886, above quoted, if Dr. Wilson shall think it to his interest to adopt that course.

You are instructed therefore to bring the case verbally to the attention of the French Government, stating its general features, and to ask whether it will direct the resident in Anjouan to receive all the proofs which may be offered by both the parties to the controversy, and whether, having these before it, it will arbitrate the claim, or whether some other way may be more proper for obtaining for Dr. Wilson the benefit of French arbitration.

I am, etc.,

T. F. BAYARD.

No. 377.

Mr. McLane to Mr. Bayard.

No. 584.] LEGATION OF THE UNITED STATES,
Paris, April 16, 1888. (Received April 30.)

SIR: I am advised by the minister of foreign affairs that all the powers parties to the convention for the protection of submarine cables having complied with the requirements of article 12 of said convention, it will go into operation, as agreed by the proctocol of July 7 last, on the 1st of May next. I understand that the French minister at Washington will notify you formally.

I inclose herewith a list of the powers who have adhered to the convention, and two printed copies of the laws* adopted by some of these powers in conformity with article 12.

I have, etc.,

ROBERT M. MCLANE.

[Inclosure in No. 584.]

List of the states which have ratified the convention of March 14, 1884, *for the protection of submarine cables.*

Germany, Argentine Confederation, Austria-Hungary, Belgium, Brazil, Costa Rica, Denmark, Dominican Republic, Spain, United States of America, France, Great Britain, Guatemala, Greece, Italy, The Netherlands, Portugal, Roumania, Russia, Salvador, Servia, Sweden and Norway, Turkey, Uruguay.

Japan adhered to the convention April 12, 1884.

Observation.—Persia and the United States of Colombia, which figured among the contracting States on March 14, 1884, have not ratified the convention.

* Not printed herewith.

No. 378.

Mr. McLane to Mr. Bayard.

[Extract.]

No. 588.] LEGATION OF THE UNITED STATES,
Paris, April 20, 1888. (Received April 30.)

SIR: In my dispatches Nos. 575 and 579 I explained very fully the relations which General Boulanger held to the political campaign in favor of revision of the constitution, in favor of which Mr. Floquet had fully organized his cabinet. The hope I expressed in my No. 575 that General Boulanger would maintain his association with the Republicans was, I thought, well founded, but the violence with which he has been assailed by them tends greatly to dispose him to yield to the solicitations of the Imperialists, most of whom supported him in the late election. Meanwhile Mr. Floquet has with great tact succeeded in uniting the entire Republican party in favor of revision under his direction, which he promises to undertake with the support of the Republican party and without any coalition with or concession to either the Monarchists or Imperialists.

Although the very large vote cast for General Boulanger at the recent election admonished the Republicans that harmony in their ranks was indispensable, and thus secured a vote of confidence for Mr. Floquet by an overwhelming majority, yet it is not difficult to perceive that this union was an enforced union, and may not be continued when the chamber is engaged in the discussion of the questions of revision and dissolution, nor can it be foreseen at this time how parties will divide upon the proposition of General Boulanger to revise the constitution by a constituent assembly or convention, rather than by the action of the Senate and Chamber of Deputies in Congress assembled. This question will be considered at an early day, though there are many Republicans who would like to defer its consideration indefinitely, fearing that the work of reform once undertaken will involve the election of the President as well as the senate by a popular vote, to which all the prominent Republicans who assisted Mr. Theirs in forming the present Government are earnestly opposed.

I have the honor to be, etc.,

ROBERT M. MCLANE.

No. 379.

Mr. McLane to Mr. Bayard.

No. 589.] LEGATION OF THE UNITED STATES,
Paris, April 20, 1888. (Received April 30.)

SIR: It occasionally happens that an application is made to this legation for a passport by the son of a naturalized American citizen born abroad after his father's naturalization, but who has never gone to the United States and who expresses no intention of going there to reside. I have in several instances of this kind decided to issue a qualified passport, but having some doubt as to the propriety of giving any passport in such cases, I have the honor to ask for your instructions on the subject.

I yesterday issued a qualified passport to Henry Asché, the son, born abroad, of Julius Asché, a native of Germany, who became an American citizen by naturalization in 1854, received a passport from the Department of State the same year, and a few years afterwards left the United States and settled at Bassorah, Turkish Arabia, where he engaged in business and died in 1870.

The son, Henry Asché, was born in Bassorah in 1866; has resided in that place and in Germany and France, but has never gone to the United States and has no intention of going there.

If the father, after acquiring American citizenship, had returned to reside in his native country, such a presumption might arise of his abandonment of his American citizenship and of his return to his original allegiance that his son, born there, could not be considered a citizen of the United States. In this case, however, the father, originally a German, after being naturalized an American, removed to Turkish possessions; there is no evidence that he had any intention of abandoning his American nationality, and the son born there was by our law at his birth technically a citizen of the United States.

Is this young man, who has never been in the United States, has never performed and has no intention of performing any of the duties of American citizenship, entitled to the protection of the United States Government?

I have given him the benefit of the doubt, and as no country but Turkey could claim him I have given him a passport in which his right to demand protection of the United States is qualified by any claims Turkey may have upon him.

For my guidance in the future I beg to be informed whether my action is approved by you, as the instructions of the Department heretofore issued are not very clear to me upon this point.

I have, etc.,

ROBERT M. MCLANE.

No. 380.

Mr. McLane to Mr. Bayard.

No. 594.] LEGATION OF THE UNITED STATES,
Paris, April 27, 1888. (Received May 8.)

SIR: With my No. 538 of January 24th last, I sent you copy of a note addressed to the French foreign office remonstrating against the treatment to which American citizens of French origin were subjected in France when visiting that country, if they had failed to perform military service, and insisting that they should be recognized and treated as American citizens when I had officially certified that they had such a character. At the same time I formally demanded the discharge from all military obligations of three American citizens of that class—John Arbios and John Fruchier, actually in the French army, and Gendrot, summoned to perform the same service (but who had returned to the United States, having fortunately made his escape).

This morning I have received a reply to this note, a copy and a translation of which are herewith inclosed.

After stating that the French Government does not presume to question the validity of any act of naturalization issued by the United States, Mr. Goblet remarks that, on the other hand, it belongs to the Govern-

ment of origin to ascertain if the Frenchman who obtained naturalization abroad is free from any obligations towards the mother country.

Waiving, however, the discussion of this point, but reserving expressly his opinion thereon, Mr. Goblet informs me that the minister of war has agreed as a favor—"à titre gracieux"—to let Arbios and Fruchier off on furlough, which is practically equivalent to a discharge, except that it is still held, notwithstanding my official declaration to that effect, that their American citizenship is not yet established. Arbios and Fruchier are therefore still considered as French, and, although orders have been issued to release them from their present military obligations, they are still technically liable to military service in the reserve.

As for the mode of settling definitely between us all questions of this character, Mr. Goblet says that the minister of war and himself are ready to consider any suggestion I may have to make with reference to the subject. I propose, therefore, to address to Mr. Goblet a communication, explaining how I understand this question can be settled; but before so doing I shall acquaint you with my views, and ask if you have any objections or suggestions to make.

I have, etc.,

ROBERT M. MCLANE.

[Inclosure in No. 594.—Translation.]

Mr. Goblet to Mr. McLane.

PARIS, *April* 26, 1888.

SIR: My department, in concert with the war department, has submitted to an attentive examination the considerations stated in your communication of the 11th of January, in regard to the men Fruchier, Arbios, and Gendrot, the two first born in France and afterwards naturalized in the United States, the third born in that country of a French father, whose discharge from service under our flags you asked for.

The war department had at first expressed the opinion that these individuals should answer before French justice for the offense of disobedience to orders, with which they were charged, and that the claim made in their behalf raised a question of status that the civil courts were alone competent to settle.

Refusing to accept, in regard to this last point, this manner of looking at the case, you endeavor to establish that "when the Government of the United States declares that these persons are American citizens and claims them as such, the proof of their foreign nationality ought to be considered as conclusive. A French tribunal can neither contest this proof nor add anything to it, because it is an admitted principle that the government which grants the naturalization is the only judge of the conditions upon which it does so."

Permit me to point out to you that it has never occurred to the French authorities to question the value of the act of naturalization by virtue of which a Frenchman by birth has become an American. But you will agree with me that, if the Government of the United States is in fact the only judge of the conditions under which it grants naturalization to a foreigner, it is the right, on the other hand, of the government under whose jurisdiction this foreigner is, and of it alone, to decide whether the aforesaid foreigner has complied with the law of his country of origin, for, if consent is, as you very justly remark, an indispensable element to the validity of the contract conferring nationality, other conditions can be required as well. Hence the conflicts so frequent, as you know, which arise in these matters, not only between states having different laws, but also between those which have laws identically the same. Numerous examples might be cited to prove this.

Nevertheless, while keeping entirely in reserve the question of principle involved, my colleague, the minister of war, consents, as an act of courtesy, to grant leave of absence until the time of the expiration of the term of active service which they owe to—

(1) Fruchier, a delinquent of the class of 1874, enrolled the 22d January, 1887, in the Seventh Regiment of Infantry, after having undergone the punishment of eight days' imprisonment.

(2) Arbios, condemned also as a delinquent of the class 1883, and enrolled in the One hundredth Regiment of Infantry since the 29th September, 1886.

Instructions have consequently been transmitted to the generals commanding the Sixteenth and Seventeenth Army Corps.

As to the agreement which it may be possible to establish between the two governments for the settlement in a general manner of situations of the nature of these to which you have called my attention, the minister of war and myself are quite ready to examine any propositions which may be presented to us upon that subject.

Accept, etc.,

RENÉ GOBLET.

No. 381.

Mr. Bayard to Mr. McLane.

No. 330.] DEPARTMENT OF STATE,
Washington, April 27, 1888.

SIR: Referring to your dispatch, No. 549, of February last, communicating to this Department the request of the French authorities for information (in connection with the case of Lefevre Bougon against Anthony J. Drexel *et al.*) as to whether letters rogatory, issued by the French courts, can be duly executed in this country, and referring also to the reply of the Department, No. 303, of the 6th ultimo, to your abovementioned dispatch, I now inclose herewith for communication to the French Government extracts from the New York code of civil procedure, giving its provisions relative to taking the testimony of witnesses in suits pending in foreign countries. From which it will be seen that the courts in the State of New York have the most ample ability to reciprocate in the matter in question.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 330.]

New York code of civil procedure.

[Chapter 9, article 3.—Depositions taken within the State for use without the State.]

SEC. 914. In what cases deposition may be taken. A party to an action, suit, or special proceeding, civil or criminal, pending in a court without the State, either in the United States or in a foreign country, may obtain in the manner prescribed in this article the testimony of a witness within the State, to be used in the action, suit, or special proceeding.

SEC. 915. Subpœna to witness. Where a commission to take testimony within the State has been issued from the court in which the action, suit, or special proceeding is pending, or where a notice has been given, or any other proceeding has been taken for the purpose of taking the testimony within the State, pursuant to the laws of the State or country wherein the court is located, or pursuant to the laws of the United States if it is a court of the United States, the commission, notice, or other paper authorizing the testimony to be taken may be presented in behalf of the party desiring to obtain it to a justice of the Supreme Court or a county judge, with proof by affidavit that the testimony of the witness is material to the party. The judge must thereupon issue a subpœna to the witness commanding him to appear before the commissioner named in the commission, or before a commissioner within the State for the State, Territory, or foreign country in which the notice was given or the proceeding taken, or before the officer designated in the commission, notice, or other paper by his title of office, at a time and place specified in the subpœna, to testify in the action, suit, or special proceeding.

SEC. 916. Contents of subpœna. The place where the witness is commanded to attend must be within the county in which he resides or sojourns, or, if it is in another county, not more than 40 miles distant from his residence or the place of his sojourn.

SEC. 917. Subpœna where no commission is issued. (Amended 1877.) Where an action, suit, or special proceeding is pending in a court of another State, or of a Territory, or of the United States, and proof is made by affidavit to the satisfaction of a justice of the supreme court or a county judge, as follows:

I. That a person residing or sojourning within the State is a material witness for either party.

II. That a commission to take the testimony of the witness has not been issued.

III. That, according to the course and practice of the court in which the action, suit, or special proceeding is pending, the deposition of a witness, taken as the one applied for is required to be taken, is authorized to be received in evidence on the trial or hearing.

The judge must issue a subpœna commanding the witness to appear before him, at a specified time, and at a place within the county in which the witness resides ro sojourns, to testify in the action, suit, or special proceeding.

No. 382.

Mr. McLane to Mr. Bayard.

[Extract]

No. 595.] LEGATION OF THE UNITED STATES,
Paris, April 27, 1888. (Received May 8.)

SIR: As anticipated, almost the entire Republican party in the chamber has been united in support of the Floquet ministry upon its assurance that it would suppress all manifestations in support of General Boulanger which had the character of a "plebiscite" or which looked to the establishment of any unconstitutional form of government. The Monarchists and Imperialists in the chamber as well as in the country at large gave great support to the popular manifestations in favor of General Boulanger giving to their action an unconstitutional character.

The immediate friends of General Boulanger earnestly professed their sincere attachment to the Republic and a desire to revise the constitution in a democratic sense. These professions have not been accepted by any section of the Republican party, and popular counter manifestations were organized in Paris and elsewhere before which the friends of General Boulanger were glad to yield and accept even the protection of the police.

Efforts are still made to reconcile the general to his Republican friends in the chamber, and they may possibly succeed, but only on condition of his public and absolute renunciation of all association with the Monarchists or Imperialists. Meanwhile the movement in his support and the attack involved in it upon parliamentary government has united the Republican party in the senate as well as in the chamber, and an understanding in both houses is now established between the ministry and a majority thereof, for the revision and reform of the constitution and a dissolution of Parliament in the course of the year 1889.

Although this understanding may be disturbed and even abandoned, since nothing of this kind can be considered absolutely stable, I am of opinion that the political crisis caused by the Boulanger incident has lost its importance, and unless he cordially unites with the Republican party in the chamber of deputies he will not be formidable in opposition either in the chamber or as a candidate.

Neither the Monarchists nor the Imperialists have strengthened their hold upon the country by their readiness to unite with the revolutionary proceedings which contemplated the suspension of the existing constitutional government, and the substitution for it of a constituent convention before which they were both willing to compete with General Boulanger for the executive power of the state; indeed, it is conceded by all the best informed and most serious men that I know, that their action has had for its immediate result the union of the Republican party in the chamber, and the strengthening of it with the people who are now manifesting their attachment to it by addresses to the Government, and Mr. Floquet seems to me to have all the tact necessary to avail of these manifestations and to so strengthen his ministry that any opposition from either the center or the extreme left of the chamber would be greatly discouraged by the constituencies who are now declaring in his favor.

I am, etc.,

ROBERT M. MCLANE.

No. 383.

Mr. Bayard to Mr. McLane.

No. 335.] DEPARTMENT OF STATE,
Washington, May 7, 1888.

SIR: The question of American citizenship and the correspondent duties of support and allegiance of the citizen on the one side and protection by this Government on the other is one of great importance, and demands careful consideration, especially in such cases as that of Henry Aschè, mentioned in your dispatch No. 589.

I have therefore to request that you will transmit a statement of the qualifications attached to the passport issued by you to Henry Aschè, as it is not understood how he can be so certified to be a citizen of the United States and yet be subject to any claims of a like nature by the Government of Turkey.

Section 4076 of the Revised Statutes expressly limits the grant or issue of passports to citizens of the United States, who must be held to be actual citizens only, so that there is no authority for the issue of passports certifying a qualified or restricted citizenship.

According to the facts recited in your dispatch, the individual in question, being of full age and *sui juris* in 1888, having been born in Bassorah in 1866, and resided there, and also in Germany and France, but never having been in the United States, and having no intention of ever coming here, applied to you in Paris for a passport.

His claim is through his father, who was a native of Germany, and emigrated to the United States and was here naturalized in 1854, in which year he obtained a passport, and a few years later left the United States and settled at Bassorah, in Turkey, where he continued to live, apparently without intention to return to the United States, and died in 1870.

It is to be doubted whether the father, under these circumstances of such continuous abandonment of his American residence and all the duties and responsibilities of American citizenship, could have been entitled to a passport without having a well-established intention on his part of returning to the country whose protection he so sought, and for

which he proposed to render no equivalent. But the son of such a person born abroad, always living abroad, in Turkey, in Germany, and in France, never having been in the United States, and having no intention ever to come here, being of full age, is not entitled to receive the certification of the citizenship of a country towards whom he sustains none of the relations of a citizen. (The principles above stated will be found in the case of Landau in the second volume of Wharton's Int. Dig., page 370, etc.)

Whatever might have been the right of the Aschés, father and son, if their continuous residence in Turkey as American citizens had been alleged and established, is not necessary to be here considered because no such case is shown, but on the contrary the voluntary residence of the son in Germany (the country of his father's origin) and in France coupled by his election when upwards of twenty-two years of age there to reside, without any intention ever to come to the United States, proves abundantly his abandonment of American citizenship.

I regret, therefore, that a passport should under the circumstances have been issued to Henry Aschè, and if it were practicable it is desirable that it should be recalled and canceled.

It is advisable that in doubtful cases of citizenship the questions should be submitted to the Department before passports are issued.

I am, etc..

T. F. BAYARD.

No. 384.

Mr. Vignaud to Mr. Bayard.

No. 608.] LEGATION OF THE UNITED STATES,
Paris, May 24, 1888. (Received June 4.)

SIR: Mr. W. Lalanne, an American citizen of French origin, now residing at Bordeaux, having applied to this legation for a certificate of "exemption" from French military service, I have the honor of inclosing herewith a copy of the correspondence exchanged between him and myself on this occasion.

The circumstances of the case are as follows:

Mr. Lalanne was born in France April 3, 1855. On March 30, 1874, being then under age, he procured a French passport and went to America, where he traveled for some time. On or about June 25, 1876, he arrived at Los Angeles, Cal.; on October 2, of the same year, with the assistance of an interpreter, he applied to the city and county court of that place to declare his intention of becoming an American citizen; that same day he obtained a certificate of naturalization. He established himself in the United States, registered for the first time at the last Presidential election, and voted. In 1888 he determined to make a short visit to France, and having lost his original papers he applied for a copy, which he obtained under date of April 2 last. (See inclosure 5.) Shortly after his arrival in France he was summoned to perform military service, and applied to the legation for the certificate of exemption above mentioned.

I replied that no such certificate could be issued by this legation, and that he could be relieved from his military obligations towards France only by establishing before a French court of justice that he was no longer a French citizen.

Under ordinary circumstances I would have authenticated Mr. Lalanne's certificate, because without such authentication he can not use it in court; but as he seems to have obtained this certificate only a little over two months after his arrival at Los Angeles, and only two years and a half after he had left France, I abstained from so doing, for the moment at least.

Considering, however, that Mr. Lalanne arrived in the United States while being a minor, and that having lived there until he was thirty-three years of age he could easily have obtained another certificate, I informed him that I would submit his case to you, and ask for instructions as to the propriety of authenticating his papers or of interfering in his behalf if necessary.

Trusting that you will kindly advise me in this respect,

I have, etc.,

HENRY VIGNAUD.

Inclosure 1 in No. 608.]

Mr. Lalanne to the Consul-general.

BORDEAUX, *May* 12, 1888.

SIR: Inclosed please find a certificate of naturalization and a convocation from French military authority.

With all required papers in my possession I left France in 1874 when eighteen years of age. I did reside about fourteen years in the United States, and I chose to come back on business a few months ago.

My greatest desire is to remain a citizen of the free America, and I hope you will favor me with instructions to obtain, once for all, a certificate of exemption from molestations of that kind.

Very respectfully,

W. LALANNE.

[Inclosure 2 in No. 608.]

Mr. Vignaud to Mr. Lalanne.

LEGATION OF THE UNITED STATES,
Paris, May 16, 1888.

SIR: Your note of the 12th instant, addressed to the consul-general, has been referred to this legation. You inclose your certificate of naturalization, with a notice from the French military authorities to report for military service, and after having stated that you left France in 1874, when eighteen years of age, that you resided fourteen years in the United States, and that you came back to France a few months ago on business, you ask for instructions to obtain, once for all, a certificate of exemption from molestation of the kind referred to.

I regret to say, sir, that the legation is not in a position to furnish you with a certificate of this kind.

The French Government holds that every natural-born Frenchman is liable to military service until he has produced evidence that he is no longer a French citizen, and is therefore disqualified to perform any military service in the French national army. Under the existing rule it is for you to furnish this evidence, and no other will satisfy the French Government but a judgment of a French civil court declaring that you have lost your original French character.

Your mode of redress is therefore to apply to the "tribunal civil" of your arrondissement for a judgment, stating that you are no longer a French citizen. In support of this application you will produce your certificate of naturalization, duly legalized by this legation, and the court will, I have no doubt, grant your request. You will then take a copy of the judgment of the court to the military authorities and they will discharge you.

This process is a rather long one, but it is usually successful, and for the present no other is open to you. Should the court reject your application, which is hardly probable, you will report at once its action to this legation. Until an actual wrong

has been done you we can not interfere. Diplomatic intervention can only take place after the legal means of redress have been exhausted.

I return herewith the notice you have received from the French military authorities. Before returning the certificate of naturalization, with the authentication of this legation, I desire some information. This paper is evidently a copy, although it does not state so, delivered April 2, 1888, of your original act of naturalization issued October 2, 1876, by the superior court of Los Angeles County, Cal. Will you please state if these dates are correctly given, and also let me known the exact date of your birth and of your arrival in the United States.

I am, etc.,

HENRY VIGNAUD.

[Inclosure 3 in No. 608.]

Mr. Lalanne to Mr. Vignaud.

BORDEAUX, *May* 18, 1888.

HONORABLE SIR: Answering to your favor of the 16th instant, I have the honor to submit my case to you as far as I can remember the circumstances.

I was born on the 3d day of April, 1855. On the 30th day of March, 1874, I took a passport at the prefecture of Bordeaux, and after traveling over America I went to Los Angeles, (Cal.), with the idea to settle, on or about the 25th day of June, 1876.

On the 2d day of October, 1876, I, with the aid of an interpreter, applied to the county clerk of the city and county of Los Angeles in order to make a verbal declaration of my intention to become a citizen of the United States of America.

My request was granted and a certificate of naturalization delivered to me.

Having lost this first certificate I can not affirm if I were considered to be a United States citizen ever since the day of its delivery, or if it was only to acknowledge the fact of my intention to become a citizen.

I must say that I had no trouble whatever when, for the first time, I registered and voted for actual President, Grover Cleveland.

I obtained the copy you have now in your possession from the county clerk at Los Angeles, (Cal.).

I shall wait for instructions from you before I take any steps in regard to the French military authorities, and

I remain, etc.,

W. LALANNE.

[Inclosure 4 in No. 608.]

Mr. Vignaud to Mr. Lalanne.

LEGATION OF THE UNITED STATES.
Paris, May 23, 1888.

SIR: I am in receipt of your letter of May 18, stating that you were born April 3, 1855; that you left France in 1874; that, after traveling in America, you arrived on or about June 25, 1876, at Los Angeles, where on October 2, of the same year you made in the city and county court your declaration of intention of becoming a citizen of the United States, and obtained a "certificate of naturalization."

You add that, having lost this first certificate, you can not affirm whether you were considered to be an American citizen since the day of its delivery (October 2, 1876), or if that paper was only to acknowledge the fact of your intention to become a citizen, but that you had no difficulty, when, for the first time, you registered, in voting for our present President.

Having arrived in the United States before being of age, you were entitled to citizen papers from the moment you had resided there five years. You could therefore have applied for such papers at any time after the expiration of these five years, but it seems that you did not, and that you contented yourself with the paper delivered to you October 2, 1876. Under these circumstances it is not possible for me to affix any certificate with the seal of this legation to this paper, which is returned herewith.

For the steps you are to take in regard to the military authorities, I refer you to my letter of the 16th instant. I hope you will be able to obtain your discharge without the assistance of this legation, but as a contingency might arise when you may need this assistance, I shall report your case to the Department of State, and ask for instructions.

I am, etc.,

HENRY VIGNAUD.

[Inclosure 5 in No. 608.]

CERTIFICATE OF CITIZENSHIP.

UNITED STATES OF AMERICA,
State of California, County of Los Angeles, ss:

Be it remembered that on the twentieth day of October, in the year of our Lord one thousand eight hundred and seventy-six, W. Lalanne, formerly of France, at present of the State of California, aforesaid, appeared in the superior court of Los Angeles county, the said court being a court of record, having common law jurisdiction, and a clerk and seal, and applied to the said court to be admitted to become a citizen of the United States of America pursuant to the directions and requisitions of the act of Congress of the United States of America entitled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject," and of the several acts in relation thereto. And the said W. Lalanne having thereupon produced to the court such evidence, made such declaration and renunciation, and taken such oaths as are by said act required, thereupon it was ordered by the said superior court of the county of Los Angeles, that the said W. Lalanne be admitted, and he was accordingly admitted by the said court to be a citizen of the United States of America.

In testimony whereof the seal of said court is hereunto affixed this 2d day of April, in the year of our Lord one thousand eight hundred and eighty-eight and in the year of our Independence the one hundred and twelfth.

[SEAL.]

PER CURIAM.
C. H. DUNSMOOR,
Clerk.
By JOHN FISCHER,
Clerk.

No. 385.

Mr. Vignaud to Mr. Bayard.

No. 610.] LEGATION OF THE UNITED STATES,
Paris, May 25, 1888. (Received June 4, 1888.)

SIR: I am in receipt of your No. 335, of May 7, disapproving the issue of a qualified passport to Mr. Aschè, a gentleman claiming to be an American citizen under section 1993 of the Revised Statutes.

The Department states that there is no authority for the issue of "passports certifying a qualified or restricted citizenship," and requests a statement of the qualifications attached to the one delivered to Mr. Aschè, "as it is not understood how he can be so certified to be a citizen of the United States and yet be subjected to any claims of a like nature by the Government of Turkey." It desires furthermore that this passport be recalled, if practicable, and canceled.

In compliance with your instructions, and in justification of the action of this legation, I respectfully beg leave to make the following statements:

(1) The authority upon which Mr. Aschè's passport was delivered is paragraph 173 of the Consular Regulations of 1881, which refers to persons born abroad of an American father, and says that "if such a person who remains a resident in the country of his or her birth applies for a passport as a citizen of the United States such passport will be issued in the qualified form shown in Form No. 11.

(2) The qualifications attached to the said passport are those enunciated in the form above mentioned (see page 515 of the Regulations), which are to the effect that the right of Mr. Aschè to the protection of the United States "is limited and qualified by the obligations and duties which attach to him under the laws of the Empire of Turkey in which he was born."

No dispatch or circular from the Department having to our knowledge canceled this instruction, I trust the legation will not be blamed for having supposed that it was still in force. It is true that in the new edition of the Consular Regulations both the instruction and the form relative to qualified passports are left out, but this new edition, received here on the 7th of April, had only been in our hands twelve days when Mr. Asché made his application, and its contents had not yet been carefully examined.

Mr. Asché I believe is not in Paris at present; I have written to him, however, and shall endeavor to have his passport returned. For my part I am satisfied that he is not a *bona fide* American citizen, and would not have advised the issuing of the passport had I not supposed that he was technically entitled to it.

I have, etc.,

HENRY VIGNAUD.

No. 386.

Mr. Vignaud to Mr. Bayard.

No. 615.] LEGATION OF THE UNITED STATES,
Paris, May 30, 1888. (Received June 12.)

SIR: With reference to your No. 335 and to the dispatch of this legation No. 610, concerning the passport delivered to Mr. Asché, I have to state that this gentleman, after listening to the reasons which made it necessary to recall his passport, gave it up at once. He remarked, however, that this ruling placed him in the position of a man having no nationality, as he had no right to claim either German or Turkish citizenship, whereas there was an American statute recognizing him as a citizen of the United States. The passport was canceled and the amount of the fee received therefor ($1) returned to Mr. Asché.

I have the honor to be, etc.,

HENRY VIGNAUD.

No. 387.

Mr. Vignaud to Mr. Bayard.

No. 617.] LEGATION OF THE UNITED STATES,
Paris, May 31, 1888. (Received June 12.)

SIR: Owing to the great number of applications made for passports since the publication of the regulations requiring all foreigners entering the German Empire by way of Alsace-Lorraine to be provided with such papers, I have asked you by telegraph to send an additional supply of blanks.

A large proportion of those making these applications are naturalized American citizens, and I find that only in a few cases I can enforce strictly the instructions of the Department with regard to passports. With a view of avoiding any possible error or misapplication of the instructions, I beg you to kindly enlighten me more fully on the following points:

Is a passport to be refused—

(1) To the wife or widow of a naturalized citizen, who has not the naturalization papers of her husband?

(2) To a naturalized citizen who has left his naturalization papers at home, or who has lost them?

(3) To a naturalized citizen residing abroad who has no intention at present of returning to the United States and who is unable to state whether he will do so or not or when he may do so?

I take it to be a settled point that the children of naturalized citizens born abroad, who have never been in the United States, and whose fathers are or were permanently residing abroad, are not entitled to a passport.

The case may be different for children of native Americans born abroad; in such cases I shall, according to circumstances, use my own discretion or consult the Department before taking any action.

The new German regulations above referred to state substantially that from May 31 foreigners entering Germany by way of Alsace-Lorraine must be provided with passports which are to be visaed at the German embassy at Paris. The visas, which formerly cost 1.90 francs, have been raised to 12.50 francs, and are good for one year only. French passports must await ten or twelve days before they can be visaed. Foreign passports are visaed at once.

I have, etc.,

HENRY VIGNAUD.

No. 388.

Mr. Bayard to Mr. Vignaud.

No. 341.] DEPARTMENT OF STATE,
Washington, June 7, 1888.

SIR: Your dispatch No. 610, of the 25th ultimo, relative to the circumstances under which a qualified passport was issued to Mr. Aschè, has been received.

Paragraph 173 and Form 11 of the Consular Regulations of 1881 were superseded in 1885, as far as the legations were concerned, by section 131 of the printed personal instructions to diplomatic officers, which omits any reference to qualified passports.

I am, etc.,

T. F. BAYARD.

[Inclosure.—Paragraph 131 of personal instructions.]

It is provided by law that "all children born or hereafter 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 to be declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States." That the citizenship of the father descends to the children born to him when abroad is a generally acknowledged principle of international law.

No. 389.

Mr. Bayard to Mr. Vignaud.

No. 342.] DEPARTMENT OF STATE,
Washington, June 8, 1888.

SIR: Your dispatch No. 608, of the 24th ultimo, has been received. You therein report the case of Mr. W. Lalanne, a person of French origin, holding a certificate of naturalization, granted by the city and

county court of Los Angeles, Cal., October 20, 1876, who had applied to your legation for a certificate of "exemption" from French military service, and was informed by you that no such certificate would be issued by your legation, and further "that he could be relieved from his military obligations towards France only by establishing before a French court of justice that he was no longer a French citizen."

The language you employ in your letter of May 16, 1888, to Mr. Lalanne, is as follows:

> I regret to say, sir, that the legation is not in a position to furnish you with a certificate of this kind.
>
> The French Government holds that every natural-born Frenchman is liable to military service until he has produced evidence that he is no longer a French citizen and is therefore disqualified to perform any military service in the French national army. Under the existing rule, it is for you to furnish the evidence, and no other will satisfy the French Government but a judgment of a French civil court declaring that you have lost your original character.
>
> Your mode of redress is therefore to apply to the "tribunal civil" of your arrondissement for a judgment stating that you are no longer a French citizen. In support of this application you will produce your certificate of naturalization, duly legalized by this legation, and the court will, I have no doubt, grant your request. You will then take a copy of the judgment of the court to the military authorities and they will discharge you.

It appears that you wrote thus to Mr. Lalanne, having before you his statement that he left France in 1874, when eighteen years of age, and a certified copy of his record of naturalization, showing that he was admitted to citizenship October 20, 1876, when he must have resided in the United States less than three years. In view of this you asked Mr. Lalanne for further particulars, which were promptly furnished to you, and which confirm the fact of illegal naturalization.

From Mr. Lalanne's statements in his letter of May 18, there would seem to be some doubt in his mind whether the certified transcript of his record of naturalization is in fact correct. He says that on the 2d (20th?) day of October, 1876, he applied to the court at Los Angeles in order to make declaration of his intention to become a citizen of the United States, and that a certificate of naturalization was forthwith granted to him, which "first certificate" he has lost. The one now submitted appears to be merely a certified transcript.

On the 2d (20th) October, 1876, Mr. Lalanne could lawfully have made declaration of his intention to become a citizen of the United States, and complete naturalization would have followed after completing the statutory term of residence of five years. But the transcript furnished is not of the record of Mr. Lalanne's declaration of intention; it purports to certify his full naturalization on October 20, 1876.

Inquiry will be made of the court at Los Angeles to determine whether the transcript is in error. If it be a correct certificate of the record of the court, and Mr. Lalanne's statement of his arrival in the United States in April, or perhaps May, 1874, when he was eighteen years old, is also correct, it is clear that Mr. Lalanne has not been lawfully naturalized, and is not a citizen of the United States.

Under all the circumstances known to you, it would have sufficed had you informed Mr. Lalanne that the legation could not intervene in his behalf, because of the evident showing that he could not have been lawfully naturalized.

Your elaborate statement to Mr. Lalanne of the position held by the French Government in regard to proof of loss of French citizenship would therefore appear to have been somewhat superfluous, especially as the point is actually at issue between the two Governments. It is

not objectionable if regarded as simply explaining what you understand to be the attitude of the French authorities.

It might, however, be construed as in some measure an acquiescence on the part of the United States Government, through its responsible agent in France, in the very objectionable pretensions of the French Government, touching proof of loss of French status; and, inasmuch as it fails to state the distinct and positive repudiation by this Government of such pretension, as contained in the Department's instructions No. 298 of 15th of February, 1888, it does not call for special approval.

You will, of course, always be careful not to let it be supposed, even by indirection or implication, that the Government of the United States will ever admit the right of any foreign Government to arrest or detain our citizens if not charged with crime.

I am, etc.,

T. F. BAYARD.

No. 390.

Mr. Bayard to Mr. Vignaud.

No. 343.] DEPARTMENT OF STATE,
Washington, June 13, 1888.

SIR: Your dispatch No. 617, of the 31st ultimo, has been received. In it you state that the publication of the regulations requiring all foreigners entering the German Empire by the way of Alsace-Lorraine to be provided with passports has greatly increased the number of applications for such papers, and may raise new questions to be decided by the legation.

You therefore ask that you may be instructed by the Department as to the following points, viz:

(1) Is a passport to be refused to the wife or widow of a naturalized citizen who has not the naturalization papers of her husband?

(2) Is a passport to be refused to a naturalized citizen who has left his naturalization papers at home, or who has lost them?

(3) Is a passport to be refused to a naturalized citizen residing abroad who has no intention at present of returning to the United States, and who is unable to state whether he will do so or not, or when he may do so?

(4) Should not passports be refused to the children of naturalized citizens born abroad, who have never been in the United States, and whose fathers are or were permanently residing abroad?

In all cases arising under the first and second questions as quoted above the legation should require the original certificate or a duly certified copy thereof to be produced as the best evidence of citizenship. If the applicant shall be unable to produce a certificate of naturalization or a certified copy thereof, then the naturalization certificate, like all other records, may be proved by parol, but to admit parol proof of it the following conditions must exist:

(*a*) The prior existence of the certificate must be shown.

(*b*) If burned or otherwise destroyed, such destruction of the certificate must be proved.

(*c*) If lost, diligent but ineffectual search for it must be shown.

(*d*) Parol proof of a lost or destroyed certificate should not be received if the original record of naturalization, of which a certified copy

could be procured, is attainable. A party who can not produce his naturalization certificate can not supply it by parol proof unless he also prove that the original record of naturalization is unattainable and can not be reproduced by a certified copy.

As to the third question the Department holds that in such cases passports should be refused.

As to the fourth question the answer is in the affirmative, with the qualification that the exclusion does not apply to cases in which the applicant, when arriving at majority, seeks the passport in order to return to the United States with the avowed intention of taking upon himself the duties and responsibilities of American citizenship. If, however, clear proof exists of the father's renunciation of American citizenship prior to the son's birth, then a passport should not be granted to the son.

I am, etc.,

T. F. BAYARD.

No. 391.

Mr. Bayard to Mr. McLane.

No. 344.] DEPARTMENT OF STATE,
Washington, June 14, 1888.

SIR: There is on file in your legation certain correspondence relative to the case of Alfred Pierre Jacob, between 1879 and 1884, and the facts of his case may be conveniently consulted in the volume of Foreign Relations for 1884, where the latest phases thereof are summarized.

I inclose herewith a copy of a letter recently addressed to me by Mr. Jacob, in which he renews his request to procure the erasure of his name from the rolls of the French military service and the recognition of his citizenship. I also inclose for your information a copy of my reply to Mr. Jacob.

In the present aspect of the question between this Government and that of France, concerning the establishment of the status of American citizenship on the part of those who by birth or descent may also be claimed as French citizens, it does not seem necessary or proper for this Government to make any formal application in the sense of either of the alternatives suggested by Mr. Ferry in his note of May 1, 1884, to Mr. Morton, but in view of the fact that no practical issue remains in this particular case, inasmuch as Mr. Jacob has served his term, and in view, moreover, of the good disposition shown by Mr. Ferry and by the then minister of war, in 1884, it is hoped that the French Government will erase Mr. Jacob's name from the list of reserves, and to this end you are instructed to employ your good offices.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 344.]

Mr. Jacob to Mr. Bayard.

PHILADELPHIA, *May* 14, 1888.

DEAR SIR: About four years ago on returning to the United States after my release from the French army, into which I had been forced notwithstanding my rights as an American citizen, I applied to the Government at Washington in order to have the matter settled.

The following is a summary of my statements: I was born at Philadelphia on July 10, 1858, and my father was naturalized when I was a boy; I remained in said city until the age of nineteen, when I sailed for France with my parents intending to remain there several years to acquire experience in my profession of civil engineer.

While at Paris I was drafted and forced into the army despite the protests of the American minister at Paris.

After completing the required time of four years I returned to my native country and complained to the Government of the way in which I had been treated abroad, asking that immediate steps be taken to have my name erased from the army rolls.

In reply to my letter of January 9, 1884, I received from the Department of State a letter dated January 22, 1884, and a second letter dated May 28, 1884, which informed me that I had only two ways of establishing in France my change of nationality.

(1) By applying directly to the French Government for permission to acquire another citizenship.

(2) By obtaining from a court of justice a declaration that I had lost my French citizenship.

To this I replied by letter of July 12, 1884, that I did not consider that I should be obliged to ask the permission of a foreign government to acquire that which had long since been acquired by right of birth, and that I did not ask for a change of nationality but for a recognition of my rights as a citizen of the United States.

I received in reply a letter dated July 22, 1884, in which I was informed that, being an American citizen, this Government did not deem it necessary for me to take any steps in France to establish my American citizenship, but would extend to me as such all proper protection. And that is where the matter now stands; my name is still on the army rolls, and I am therefore still liable to military duty. I am about to be called upon to represent American interests at the Paris Exhibition; can I safely do so? And will the Government of the United States have the power to extend to me the proper protection due to citizens abroad?

It seems to me that, under the existing circumstances, unless my name is definitely erased from the rolls, I will have trouble.

Since my return to this country I have, of course, ignored everything concerning military duty in France.

You will greatly oblige me by securing the erasure of my name from the rolls and the recognition of my citizenship.

I am, etc.,

ALFRED P. JACOB.

[Inclosure 2 in No. 344.]

Mr. Adee to Mr. Jacob.

DEPARTMENT OF STATE,
Washington, June 14, 1888.

SIR: Your letter of the 14th May has been received. You therein refer to the correspondence had in 1884 concerning your service in the French army, and your request then made for the cancellation of your name in the French army list on the ground that you, although born of French parentage, were lawfully a citizen of the United States in pursuance of the statutes applicable to the case; and you now repeat your request that your name be definitely erased from the French rolls. You ask this in view of the fact that you are about to be called upon to represent American interests at the Paris Exhibition and desire to know whether you can safely do so.

Upon an examination of the facts in your case, which sufficiently appear in the published correspondence found in the "Foreign Relations" for 1884, a copy of which I herewith send you, it will be seen that having served out your full term of conscription in the French army, no practical issue remains beyond the circumstance of your name being borne upon the rolls of the reserves. From the note of Mr. Jules Ferry to Mr. Morton, of May 1, 1884 (which has heretofore been communicated to you), it appears that the French authorities were favorably disposed in your case, and that they suggested as a most expeditious method an application by you to the minister of justice for a recognition of your change of allegiance, which application, it was stated, would have the active support of the then minister of war.

A copy of your letter, with proper instructions in the premises, will be sent to Mr. McLane, the United States minister at Paris.

I am, etc.,

ALVEY A. ADEE,
Second Assistant Secretary.

No. 392.

Mr. Vignaud to Mr. Bayard.

[Extract.]

No. 628.] LEGATION OF THE UNITED STATES,
Paris, June 25, 1888. (Received July 10.)

SIR: Since May 25, date of the new German frontier regulations, over two hundred and fifty passports have been issued by this legation.

With reference to this subject, I may state for the information of the Department, that according to the German regulations servants must be provided with separate passports.

I have, etc.,

HENRY VIGNAUD.

No. 393.

Mr. Vignaud to Mr. Bayard.

No. 629.] LEGATION OF THE UNITED STATES,
Paris, June 25, 1888. (Received July 10.)

SIR: As the case of Mr. Leonetto Cipriani, of Baltimore, has been brought to the attention of the public, I deem it proper to inform the Department of my action in the matter.

Under date of June 12, our consul at Marseilles addressed me a note inclosing a regular application from Mr. Cipriani for a passport and a letter from Consular Agent Damiani supporting the application.

After taking cognizance of these papers, I concluded to issue a passport to Mr. Cipriani, and informed Consul Mason of my reasons for so doing in the following letter, which states the circumstances of the case:

LEGATION OF THE UNITED STATES,
Paris, June 14, 1888.

Capt. FRANK H. MASON,
United States Consul, Marseilles:

SIR: I am in receipt of your letter of June 11, with accompanying papers, concerning the application of Leonetto Cipriani for a passport and a certificate of citizenship.

The circumstances of this case are as follows:

Mr. Cipriani was born February 28, 1860, at Baltimore; his father was not an American citizen, and resided in the United States only a short time. His mother was a native American, and he has always resided in the United States, from his birth to the present time, when, being aged twenty-eight, he was called to Europe to see about the estate of his deceased father. It is further shown that he has always enjoyed every right accorded to American citizens; that he voted, served on the jury, and was a member of nominating conventions.

The fact that Mr. Cipriani was born in the United States, and is domiciled there, makes him an American citizen. If he had expatriated himself, or had taken any steps or accepted any position involving possibly a practical abandonment of his original nationality, his right to a passport might be questioned. Such not being the case, however, I send it to you herewith.

As for the certificate of citizenship, the rule is that no such paper can be given in lieu of a passport; but when a passport is issued, and there is a special and good reason for giving such a certificate, which seems to be the case with Mr. Cipriani, who, it is stated, can not settle the estate of his father without this paper, I am of opinion that it can be given. The consular agent might state therefore, that, according to to the laws of the United States, Mr. Cipriani is an American citizen. I would not advise him to go any further. He must not commit himself or commit the United States Government with regard to what might be done in case Mr. Cipriani should go to Italy and were to be called upon to perform military service.

Yours, very respectfully,

HENRY VIGNAUD,
Chargé.

I inclose herewith Mr. Cipriani's application and a copy of his note to Mr. McLane, and also a copy of a letter from Mr. Damiani to the consulate at Marseilles.

Very respectfully, etc.,

HENRY VIGNAUD.

[Inclosure 1 in No. 629.]

Mr. Damiani to Mr. Martin.

CONSULAR AGENCY OF THE UNITED STATES OF AMERICA,
Bastia, 18 *Rue de l'Opera, June* 6, 1888.

MY DEAR SIR: I beg to acknowledge receipt of your esteemed favor of the 11th May last, for which I extend very respectful thanks.

I wish now to submit you a case which I was asked to address to you, and that you would refer same to his excellency our minister resident at Paris, if thought necessary.

There is at present at Bastia, for personal affairs concerning the estate of his deceased father, the Count General Cipriani, who died at Centuri, Corsica, about a month ago, Mr. Leonetto Cipriani, of Baltimore, and it has been announced to him that he is not in a position to inherit, etc., owing to the fact that his father, being an Italian subject, a senator of that country, etc., constituted him an Italian citizen, and that he would be liable to five years' service in the Italian army.

His father, in 1859, married in Baltimore his mother, Miss Mary Tolly Worthington, and had by her one son, the mentioned Leonetto. He was born in the city of Baltimore, on St. Paul street, and has lived in America, voted there, and has always enjoyed every right accorded to American citizens.

The Italian consul at Bastia insists that he does not gain American nationality, save by having renounced to Italian citizenship when he reached the age of twenty-one years. As he never considered himself an Italian subject, it being a well-known law of our country that a child born of American mother on American ground was an American, and as such he enjoyed all privileges accorded to American citizens.

Now, I would wish to know the construction of this law, and whether he is or not an American citizen? Is he entitled to American citizenship or is he not? If so, could not our chief diplomatic representative, who is invested with such power, deliver Mr. Cipriani a passport, based upon the gentleman's certificate of birth, of which I herein inclose a certified copy?

The gentleman is to inherit a pretty wealthy estate, and thus far it is controlled by the Italian consul, who don't seem to be willing to abandon the administration of the said estate unless it is proved to him by the American authorities that Mr. Cipriani is an American citizen. The Italian consul, here cites international law, and places his own construction on what, in this case, seems far from being applicable. I will be very thankful to you to prescribe me the best course to pursue in the interest of this gentleman; and being born in the United States, where he has lived until now—that is, to the age of twenty-eight—where he has voted, served on the jury, and even nominated delegate to conventions, etc., what papers would he have to furnish to prove his American nationality?

When his father died, about a month ago, he was telegraphed, and he came in great hurry, without thinking or supposing necessary any papers as to his citizenship, as he never supposed himself anything else but American, and only brought along with him his certificate of birth.

It is well to inform you that, the greater portions of the estate being in Italy, he would very much need to go there, but can not do so, for the reason that the Italian authorities would get hold of him and make him serve in the army. It would therefore be a valuable service under the circumstances to Mr. Cipriani if anything could be done to help him out of it, and in his behalf I beg to ask you what is in your power to do.

I beg to remain, very respectfully, your obedient servant,

SIMON DAMIANI,
United States Consular Agent.

N. B.—After writing this letter I got a notice from the consul-general of Italy that a certificate issued by me, setting forth the American citizenship of Mr. Cipriani, would satisfy him, and he would let him free on his estate. If you judge that I can safely do so, please wire me on receipt of this; will pay telegram and greatly oblige,

Respectfully, etc.,

S. D.

[Inclosure 2 in No. 629.]

Mr. Cipriani to Mr. McLane.

CONSULAR AGENCY OF THE UNITED STATES OF AMERICA,
Bastia, June 11, 1888.

YOUR EXCELLENCY: The application which is accompanied by this letter, for a passport for myself, also certificate which our United States consular agent at Bastia, Mr. Damiani, incloses, I have been obliged to ask for, as I am about to inherit my father's estate, Count Cipriani (deceased). Your excellency will perhaps remember my mother, Miss Mary Tolly Worthington, of Baltimore County, Md. I never imagined my American citizenship to be questioned, as I have lived, was born in Baltimore, voted there, and enjoyed all privileges.

Trusting that I may have the passport at an early day,

Believe me, sir, yours, respectfully,

LEONETTO CIPRIANI.

No. 394.

Mr. Rives to Mr. McLane.

No. 350.] DEPARTMENT OF STATE,
Washington, June 30, 1888.

SIR: A telegram was received from you yesterday, expressing your desire to be authorized to exercise your discretion in accepting parol proof of the existence of a certificate of naturalization if the applicant should be unable to produce it in original or certified copy, and adding that applicants experience considerable difficulty in complying with the requirements of the Department's previous instructions in the matter.

To the above Mr. Bayard immediately replied that he did not feel justified in enlarging your discretion beyond the limits laid down in his instruction No. 343 of the 13th instant.

That instruction contained a statement prepared with care of the rules of law applicable to the case of parol proofs of the contents of a missing record. It is obvious that where the fact of naturalization can be proved by the production of the record, that course should always be preferred, and parol proof should never be allowed but in exceptional cases.

The rules laid down in No. 343 are, it is believed, sufficiently liberal to cover every proper case of inability to produce the certificate of naturalization. Too much care can not be used to see that a passport, which is the official recognition of American citizenship abroad, is not issued to persons who are not entitled thereto.

I am, etc.,

G. L. RIVES,
Acting Secretary.

No. 395.

Mr. McLane to Mr. Bayard.

No. 631.] LEGATION OF THE UNITED STATES,
Paris, July 2, 1888. (Received July 16.)

SIR: I have your telegram in reply to mine of this instant, to the effect that you do not feel justified in enlarging my discretion as to parol proof of the existence of naturalization certificates beyond that which is conferred in your No. 343.

In this connection I desire to call your attention to paragraph 120, article 12, personal instructions to the diplomatic agents of the United States,* and to ask whether the last paragraph thereof dispenses with the necessity of producing other evidence of citizenship.

It has been the practice of this legation to accept passports from the State Department within two years from their date as sufficient evidence of citizenship to authorize the issuing of a new passport in lieu of the one issued by the Department of State, notwithstanding paragraph 127 of these same instructions.

The conditions under which your No. 343 permits parol proof of naturalization are difficult to comply with by very many applicants and excite great dissatisfaction on the part of many very respectable and well known naturalized citizens, who find themselves in Europe without their naturalization certificate, but who could easily establish to the satisfaction of the minister their citizenship, as the native-born citizen does.

I thought it my duty to call your attention to this matter in anticipation of complaints which will certainly be addressed to you and to the public as to the practical discrimination made between naturalized and native-born citizens seeking passports from the diplomatic agents of the United States in Europe.

Many of these complaints come from well known naturalized American citizens who have passed the whole period of their lives in the United States engaged in commerce and business, and who have not had occasion to produce their certificates of naturalization abroad, since most of the civilized countries of Europe have not of late years exacted the production of such passports. Even now, Germany only exacts their production on the frontier of Alsace-Lorraine and France. It was in view of such cases that I suggested by my telegram of June 29 the propriety of leaving to me some discretion in establishing the citizenship of applicants for passports when the certificate of naturalization has been left in America, and when it can not be procured in time to meet the necessities of the case. Though I have inadvertently strained, in one or two cases, your instructions in No. 343, where well known naturalized citizens and their children are concerned, I shall accept them for the government of this legation unless you direct their modification.

I have, etc.,

ROBT. M. MCLANE.

* When an application is made for a passport by a native citizen, before it be granted the applicant must make a written declaration under oath, stating his name in full, age, and place of birth, supported also, if possible, by the affidavit of a creditable person, to whom the applicant is personally known, and to the best of whose knowledge and belief the declaration is true, and the minister or consul may require such other evidence as he may deem necessary to establish the applicant's citizenship. If the applicant claims to be a naturalized citizen, he shall also produce the original or certified copy of the decree of the court by which he was declared to be a citizen, and it is the duty of the minister or consul, at the close of each quarter, to transmit to the Department a statement of the evidence on which all such passports were issued or granted. The applicant should also, in both cases, be required to take the oath of allegiance, and the oath should be transmitted to the Department with the quarterly return. A passport issued from this Department, coupled with the proof that the person in whose behalf it is presented is the person named therein, may be taken as prima facie evidence of the citizenship of the applicant, within two years from its date.

No. 396.

Mr. McLane to Mr. Bayard.

No. 633.] LEGATION OF THE UNITED STATES,
Paris, July 6, 1888. (Received July 16.)

SIR: On the 3d instant I issued a passport to Felix Poyard and his minor children, who has been residing in Bordeaux since May, 1860, and who declared that it was his intention to return to the United States in a year or so. I felt that I strained somewhat the 4th point of your instruction No. 343, as the declaration of intention to return was rather vague, especially in view of the thirty years' residence in France, his native home, after being naturalized.

I have now received an application from one of his children, aged seventeen, who is already included in the father's passport. I hesitate to issue it in the separate form requested fearing the possibility of some future call upon him for military service, and I submit the matter for your instruction, as the long residence of the father in France may be considered as constituting the permanent residence referred to in the 4th point of your instruction.

I have, etc.,

ROBERT M. MCLANE.

No. 397.

Mr. Bayard to Mr. McLane.

No. 357.] DEPARTMENT OF STATE,
Washington, July 11, 1888.

SIR: Mr. Vignaud's dispatch No. 629 of the 25th ultimo, relative to the citizenship of Leonetto Cipriani, has been received.

The Department approves Mr. Vignaud's course in granting a passport to Mr. Cipriani. The facts of the case, as stated, his birth in the United States, continued residence here during minority, option of status on obtaining legal majority, domicil, and exercise of the rights and duties of citizenship, combine to constitute him a lawful citizen of the United States.

His status in this regard does not appear to have been questioned in any way by the authorities of France, and the only question raised by the Italian consular representative seems to be as to the form in which satisfactory proof of Mr. Cipriani's American citizenship is to be furnished for the purpose of settling the inheritance due him. The Department has no information of interference with any rights or privileges of Mr. Cipriani, under Italian law.

It is difficult, in view of Mr. Vignaud's report of the actual circumstances, to understand the alarming statements in regard to Mr. Cipriani which obtained credence in the public press, and to which Mr. Vignaud refers as leading him to make his present report.

I am, etc.,

T. F. BAYARD.

No. 398.

Mr. Bayard to Mr. McLane.

No. 358.] DEPARTMENT OF STATE,
Washington, July 16, 1888.

SIR: With reference to my instruction to you, No. 343, of the 13th ultimo, relative to the regulations governing the issuance of passports, I inclose herewith for your information a copy of a letter to this Department from Mr. Louis P. Twyeffort concerning the alleged action of your legation in refusing to renew his passport (issued in May, 1879), on account of his inability to produce the required proof of his naturalization; also a copy of the Department's reply to Mr. Twyeffort's communication.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 358.]

Mr. Twyeffort to Mr. Bayard.

PARIS, *June* 28, 1888.

SIR: I have just been refused a renewal of passport No. 12333, issued to me May 8, 1879. Mr. McLane informs me he can not issue a new passport to a naturalized citizen unless he has in his possession the original naturalization papers. It seems to me that my old passport is as much prima facie evidence that I am a citizen of the United States as my original naturalization papers would be, and I consider it a hardship that I am refused a new one. I wish to go to Nürnberg, Bavaria, and shall be obliged to make a detour via Cologne to get there, because our minister to France refuses to accept what I consider very good proof that I am a citizen of the United States and entitled to the protection of its flag. I earned my citizenship through three years or more of fighting the rebellion and consider myself just as good a citizen as if I had been born in the United States. I write this because I suppose our minister is acting under instructions of the Department, and attention being called to what I think is wrong, you may, after investigation, change your instructions to our ministers abroad.

For identification I refer you to the Congressman of my district, Hon. S. V. White.

Respectfully,

L.P. TWYEFFORT.

[Inclosure 2 in No. 358.]

Mr. Adee to Mr. Twyeffort.

DEPARTMENT OF STATE,
Washington, July 13, 1888.

SIR: I have to acknowledge the receipt of your letter of the 28th ultimo, in which you complain of the refusal of the United States legation at Paris to renew your passport from this Department, No. 12333, dated May 8, 1879, because of your failure to produce a certificate of naturalization to prove your title to a passport as an American citizen.

In reply, I have to inform you that by a regulation of this Department in force for many years passports are good only for two years, on or before the expiration of which period they are required to be renewed. This regulation has the double effect of enabling the Government to keep trace of those claiming its protection abroad and of requiring from them a small contribution to the expenses of the Government whose protection they enjoy.

It is for these reasons and because of the regulation fixing two years as the period of vitality of a passport that diplomatic officers have contemporaneously been forbidden to accept a passport more than two years old as sufficient evidence of citizenship to warrant the issuance of a new passport. This rule applies to native and

naturalized citizens of the United States impartially, and where a citizen of the United States presents himself to a legation for the renewal of a passport more than two years old he is required, whether a native or naturalized citizen, to present the same sort of evidence of citizenship as that upon which his passport was originally obtained.

I am, etc.,

ALVEY A. ADEE,
Second Assistant Secretary.

No. 399.

Mr. Bayard to Mr. McLane.

No. 359.] DEPARTMENT OF STATE,
Washington, July 20, 1888.

SIR: In the case of Mr. Felix Poyard, reported in your No. 633 of the 6th instant, a settled and continuous residence of thirty years in France, the country of his origin, to which he had voluntarily returned and where he had made his domicil, would seem in all reason to have indicated his abandonment of his acquired American citizenship, unless satisfactorily rebutted by proof of special countervailing circumstances. In that long period it does not appear he had ever performed any duty of an American citizen, although during a portion of the time the resources of the country were strained to the utmost; and yet by a vague oral declaration of his intention at some future time to return here, he is to be held entitled to all the privileges and protection for which he has not rendered the slightest equivalent.

In all such cases I hold that very strict inquiry should be instituted, and if the French domicil has been established, and the usual evidence of a continuing intent to live and die in that country is found, then there can be no pretext for certifying by means of an American passport a correlative allegiance and protection which do not exist.

As to the minor children of such a person born abroad, who were never in the United States, and not being *sui juris*, can not elect their domicil or citizenship, the objection to issuing passports to them is even stronger; and during minority they can claim nothing more at least than their parent. The minor does not require a passport to enable him to come to the United States, to which country he can resort whenever he chooses.

It must not be forgotten that in such cases it is always in the power of the applicant, by a return to the United States, or by the performance of some act affirmative of citizenship in this country, to relieve his case of doubt.

Neglect of rights and duties often involves loss, but the maxim applies in respect of rights of citizenship as much as to other rights—"*vigilantibus non dormientibus subvenient jura.*"

I am, etc.,

T. F. BAYARD.

No. 400.

Mr. Bayard to Mr. McLane.

No. 360.]

DEPARTMENT OF STATE,
Washington, July 20, 1888.

SIR: Your No. 631, of the 2d instant, has been received. In it you confirm your telegram of June 29, acknowledge the receipt of my reply thereto, and reiterate your desire to be permitted, in your discretion, to dispense with the production of certificates of naturalization by persons asserting themselves to be naturalized citizens of the United States and desiring to obtain passports from your legation.

In instruction No. 350 of June 30 last, the Department briefly stated the reasons why this discretion could not be extended; but in view of the earnest representations which you have made to the Department, it may be well to state my views more in detail.

You suggest that a discrimination is made, under the instructions recently given to you, between natives and naturalized citizens of the United States, or at least that applicants for passports may allege the existence of such a discrimination. The answer to this suggestion seems to me plain. The rule of proof applied to each class of citizens is the same; and it is the well-known legal rule, universally adopted, that in all cases the proof to be submitted of the existence of a fact must be the best proof of which the case is in its nature susceptible. In the case of native citizens of the United States, as there is no system in existence of individual registration, such as exists in some other countries, the best proof is by affidavit and personal identification to the satisfaction of the legation. But in the case of naturalized citizens additional and other facts essentially different must be established.

By the laws of the United States naturalization of a foreign-born person to be an American citizen is intrusted to the courts of record, both of the several States and of the United States. By the rules of evidence, as universally administered here, the record of such court can be proved either by an inspection of the records themselves or by a certified copy under the seal of the court; and such evidence is the conclusive and sole proof of the action of the court.

Whenever the question of citizenship is brought in issue within the United States the certified abstract from the record of the court is required to establish the fact of naturalization. In cases of loss or destruction of the original records an exception is made, but then the ground for the introduction of secondary evidence must be laid by proofs in the usual mode.

It is not perceived how a less stringent rule could properly be laid down for the guidance of the agents of the Government residing in foreign countries. The expediency of increased strictness is rather apparent, when the serious nature and consequences of the guarantees of national protection which are to accompany the issue of a passport are taken into consideration. At the present time, questions of allegiance and citizenship are undergoing unusually serious examination in Europe, especially in the provinces of Alsace and Lorraine, lately part of the territory of France, but in which German power is now maintained in consequence of cession under the duress of war. The obligations of the Government to its citizens are of the most far-reaching nature, and the United States expect to perform their full duty in protecting their citizens abroad, but the fact of such citizenship must be

established before our intervention can be appealed to. It is not competent for this Department to alter the law which makes naturalization the act of a judicial court of record, and for that reason to be proven like other records.

The hardships of the enforcement of the rule here insisted upon, and which is not, as you seem to suppose, of recent origin, are more apparent than real. The procurement of a certificate of naturalization under the seal of the court is easy and inexpensive, and duplicates can always be obtained before going abroad, or within a fortnight, by telegraphing, by any one now in Europe.

The instructions heretofore given (No. 343) have thus been reviewed in the light of your recent representations, and it is not perceived how this Department, consistently with public interests or duty, can dispense with the customary and reasonable proof of American naturalized citizenship.

The present time appears opportune to inform that portion of the public who propose in their residence in foreign countries to enjoy all the privileges of American citizenship, that at least they must establish their right to do so by the usual and easily-acquired proofs.

The special question you present, whether the last paragraph of section 120 of the printed personal instructions dispenses with the necessity of producing other proof of citizenship than a duly executed passport less than two years old, the renewal of which is applied for, has been anticipated by my instruction No. 358, of the 16th instant, which transmitted for your information copies of the Department's correspondence with Mr. Twyeffort.

I am, etc.,

T. F. BAYARD.

No. 401.

Mr. McLane to Mr. Bayard.

No. 645.] LEGATION OF THE UNITED STATES,
Paris, July 23, 1888. (Received August 8.)

SIR: Referring to my No. 631, under date of July 2, I have taken the liberty to issue a passport to Mr. Max Hellman, of the house of Seligman & Co., a naturalized citizen of the United States, whose certificate of naturalization was in the vault of that house in New York. His case was very urgent as to time, and he promised to produce to me his certificate of naturalization later on. He is perfectly well known to me, and he has been naturalized thirty years, and he exhibited passports heretofore issued to him from the State Department, and also from this legation.

When he first applied for a passport, I required the certificate of his naturalization, but in view of the passports exhibited by him and of my personal knowledge of his identity and high standing, I took the liberty of issuing the passport to him, though I am not yet authorized by you to exercise such discretion. I hope, nevertheless, that my action will meet your approval.

I have, etc.,

ROBERT M. MCLANE.

No. 402.

Mr. McLane to Mr. Bayard.

No. 651.] LEGATION OF THE UNITED STATES,
Paris, July 30, 1888. (Received August 13.)

SIR: In reply to your No. 359, of July 20, relative to the case of Mr. Felix Poyard, I have to note your opinion that in all such cases a strict inquiry should be instituted to establish the fact that it is not the intention of the applicant to abandon his American citizenship.

Concurring with you in this view of the case, I have nevertheless accepted from applicants the general declaration that it was their intention to return to the United States without requiring them to indicate any specific time for such return, which in many cases they can not do; especially is this the case with very respectable and honorable naturalized citizens engaged in business here.

Mr. Poyard's declaration that he intended to return as soon as he could was certainly as vague as any that I have received, and I would not have accepted his application if I had not been of opinion that it was his intention to return and perform his duties of citizenship. I do not understand your No. 359 as instructing me to require an explicit and specific indication of the time when the applicant intends to return to the United States. I shall, nevertheless, in pursuance of your instruction now under reply make the necessary inquiry to assure myself of the real intention of those applying for passports.

I have, etc.,

ROBERT M. MCLANE.

No. 403.

Mr. McLane to Mr. Bayard.

No. 652.] LEGATION OF THE UNITED STATES,
Paris, July 31, 1888. (Received August 13.)

SIR: I have the honor to acknowledge the receipt of your instructions Nos. 358 and 360 in reply to my No. 631, the former inclosing correspondence with Mr. Louis P. Twyeffort and the latter dealing more generally with the questions submitted by me concerning your instructions in your No. 343 relative to the regulations governing the issuance of passports.

Your instructions, as contained in these Nos. 358 and 360, shall be duly accepted for the government of this legation in the future, as, indeed, with a few exceptions, they have been in the past; but it is only within a recent period that passports have been required by any of the European powers except Russia.

I reported to you in my No. 643 one of these exceptions, where the applicant was well known to me to be a naturalized citizen of the United States, who had already received passports from the Department of State and from this legation, and who promised to write to the United States for his certificate of naturalization, but who was under urgent necessity to leave Paris immediately.

It would not be respectful, I think, for me to press further upon your attention the views submitted in my No. 631 as to the propriety of authorizing me to exercise discretion in the matter of issuing passports to

naturalized citizens who are unable at the moment to produce the technical legal proof of naturalization by a court of record, nor did I require instruction as to what was the strict legal proof of naturalization, and in my No. 631 I indicated the class of cases in which I thought my discretion might be exercised. I might, indeed, have called your attention more specifically than I did to the individuals who found themselves in Europe without their certificates of naturalization and without having the time to procure them from the United States to meet their present necessity.

I have, etc.,

ROBERT M. MCLANE.

No. 404.

Mr. Bayard to Mr. McLane.

No. 367.] DEPARTMENT OF STATE,
Washington, August 10, 1888.

SIR: I have to acknowledge the receipt of your No. 645 of the 23d ultimo, in which you inform the Department of your issuance of a passport to Mr. Max Hellman, a naturalized citizen of the United States, without the exhibition by him of his certificate of naturalization, as required by the rules of this Department. You state that he is well known to you personally, that he has been a naturalized citizen of the United States for thirty years, and that while he failed to produce a certificate of naturalization, he exhibited passports heretofore issued to him by this Department, and also by the American legation at Paris.

Upon these facts, and especially in view of your personal knowledge of the applicant, your action is approved. The personal knowledge of a minister of the United States necessarily obviates the necessity of more formal proof.

I am, etc.,

T. F. BAYARD.

No. 405.

Mr. Adee to Mr. McLane.

No. 370.] DEPARTMENT OF STATE,
Washington, August 15, 1888.

SIR: Your dispatch No. 652, of the 31st ultimo, in further relation to the discretionary limits to be allowed in the issuance of passports, has been received.

The several points therein presented, including the exceptional case reported in your No. 643, to which you refer, appear to have been met by the Department's recent instructions.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

No. 406.

Mr. McLane to Mr. Bayard.

No. 661.] LEGATION OF THE UNITED STATES,
Paris, August 16, 1888. (Received August 27.)

SIR: In accordance with your instruction of June 14 I brought again the case of Alfred Jacob to the attention of the French foreign office. Jacob, as you will remember, is a native American of French origin, now residing at Philadelphia, who, after having been compelled to perform military service in France, some years ago, was placed on the military rolls of the reserve, where his name now stands. In view of the peculiar circumstances of the case, I was instructed to obtain, if possible, that he be finally discharged and recognized as an American citizen.

Under date of the 4th instant, Mr. Goblet replied that the French military authorities have been and are still willing to fully discharge Jacob as soon as he will have obtained permission from the French Government to assume American citizenship. A copy of my note to Mr. Goblet, and of his reply, with a translation of the same, are herewith inclosed.

I have abstained from making remarks upon this refusal, but in order to ascertain what the exact position of the French Government is with reference to the special authorization mentioned in Mr. Goblet's dispatch and occasionally in other dispatches from his department, I have addressed him a note to inquire if the French Government held that a Frenchman could not lawfully become an American citizen without being previously authorized to do so, and, if such is the case, how he is to proceed to secure such an authorization.

I have made this inquiry because the French Government sets up this pretension in general terms applicable to naturalized citizens of French origin, as well as to those who were born in the United States of French parents and remained there, as did Jacob and Gendrot, both of whom have been the subject of correspondence with the French Government and whose final discharge from military service was requested.

I have taken this occasion to invite Mr. Goblet's attention to the appeal already made to him to agree upon some reasonable adjustment of these constantly recurring controversies as to the right of the French Government to impress American citizens of French origin into the French military service. I shall send a copy of this note, with the reply thereto, as soon as it is received.

I have, etc.,

ROBERT M. MCLANE.

[Inclosure in No. 661.]

Mr. Goblet to Mr. McLane.

[Translation.]

PARIS, *August* 4, 1888.

SIR: On the 2d of last month you made an unofficial application to my department with the view of obtaining the definite discharge from the rolls of our army of one Alfred Jacob, French by origin, American by naturalization, who has been at different times the subject of a correspondence between your legation and my predecessors.

The minister of war, to whom I had immediately presented the question, recalls the fact that in 1884 the military authorities declared themselves ready to discharge the person in question from the military service as soon as he should be authorized by the French Government to acquire American citizenship.

General Campenon added at the time that he would be fully disposed in that case

to support the request which should be presented for that purpose to the keeper of the seals (minister of justice). Mr. de Freycinet observes that the new request which has been sent to him, does not show any evidence that this authorization has been obtained or even asked for. Under these circumstances, my colleague requests me to inform you that he can only at present recommend Jacob to hasten the fulfillment of the formality in question.

Accept, etc.,

RÉNÉ GOBLET.

No. 407.

Mr. McLane to Mr. Bayard.

[Extract.]

No. 665.] LEGATION OF THE UNITED STATES,
Paris, August 24, 1888. (Received September 5.)

SIR: The recent elections on the 19th of August in the three French departments known as the "Nord," "Somme," and "Charente-Inférieure" resulted in the election in each of General Boulanger, on the issue of revision of the constitution and a dissolution of the existing chambers.

This result has taken the country somewhat by surprise, and as usual in such cases, is the occasion of much exaggeration and speculation. The simple truth is that the great mass of the conservatives, both royalists and imperialists, are in favor of revision and dissolution; some looking to the return of the monarchy, and some to that of the Empire, but all ready to vote at any time to embarrass the existing Government. It was thus that Mr. Clémenceau was able at any time, with radicals in the Chamber, to secure the support of the conservatives for the overthrow of any Republican ministry. Both Mr. Goblet and Mr. de Freycinet, whom he had assisted to elevate, were overthrown when he and his friends were discontented with their policy. At the present time General Boulanger has adopted the same tactics, and, supported by radical republicans, he has sought the support of the conservatives, presenting only the issue of revision and dissolution, which is as popular with radical republicans as it is with monarchists or imperialists, each having, however, different objects in view.

I am prepared for some change in the relation of the Republicans in the chamber to the Floquet ministry, but I do not think there is any change in the general political situation of the country, unless it be to note that while the republicans continue to hold a majority of the chamber as well as of the people, the radical element in their organization increases in force and promises never to rest until it secures full possession of the Government, and naturally the activity of General Boulanger and his association with the conservatives stimulates the republicans to increased zeal and vigor in support of their principles and of the republican government without much reference to its "personnel."

I have therefore to offer no material modification of the opinions heretofore expressed to you in reference to the action of General Boulanger or of its influence on the political condition of the country, for if he passes to the conservatives he will lose all republican support, and naturally if he adheres to the latter he will not be able to maintain his association with the former. He still insists, as do his immediate friends, that he is as fully as Mr. Clémenceau ever was in harmony

with the republicans, and that the support he now receives from the conservatives is upon the simple issue of revision and dissolution, to which he insists the great mass of the republican party is favorable.

I have, etc.,

ROBERT M. MCLANE.

No. 408.

Mr. McLane to Mr. Bayard.

No. 684.] LEGATION OF THE UNITED STATES,
Paris, October 4, 1888. (Received October 15.)

SIR: I inclose herewith a copy and a translation of a decree concerning aliens residing in France, which was issued on the 2d instant, and which has created quite a sensation in the large foreign population of this city. It obliges every alien residing or intending to reside in France, either permanently or for a certain length of time, to register, within fifteen days or a month, according to circumstances, and to furnish evidence of his nationality. Travelers are exempted from this formality. Aliens domiciled in France having already complied with this regulation are also excepted from the operation of the order, but it should be noted that according to French law there is a great difference between residence and domicil. One may be residing for twenty years in France without having a domicil, whereas the right to domicile can be obtained immediately after arrival in France. Formerly there were important differences between the alien residing in France who had not obtained the right of domicil and the one who had. At present the difference is slight. For instance, the latter can have charge of a primary school; the former can not. The ordinary alien can be summarily expelled; the other can not. The *judicatum solvi* bond is exacted from the former and not from the latter.

By referring to the decree you will see that the statement required from each alien as to his nationality, date, and place of birth is to be supported by papers or documents. Exactly what kind of documentary evidence will be required does not appear, but a passport, I suppose, will be asked for in each case. I anticipate, therefore, that a great number of applications will be made for passports by Americans residing in France, and that these applications will increase the embarrassment under which this legation is now laboring with reference to this matter, especially as to applications for passports from native or naturalized Americans residing in France who have at present no domicil or occupation in the United States, and who may belong to either of the following categories.

Those who have no intention of returning to the United States.

Those who can not state whether they will do so or not.

Those who have the intention of returning home but who are unable to say when.

According to the instruction now in force passports would certainly be refused to all those belonging to the two first classes and perhaps to the third. But as such refusal may involve serious consequences to many respectable Americans, such as fines and expulsion, I have deemed it my duty to call your attention to the subject.

I have, etc.,

ROBERT M. MCLANE.

[Inclosure 1 in No. 684.—Translation.]

THE MINISTER'S REPORT.

The statistical returns show that the number of foreigners residing in France, already considerable—is continually on the increase, owing to a progressive movement of immigration from neighboring countries.

This state of things has appeared to me to call for the special attention of the government, and I have arrived at the conclusion that, as is already done by most other nations, it has become necessary to enable the Administration to become cognizant of the conditions under which foreigners come to establish themselves on our soil.

To this end I have the honor to submit for your signature the subjoined decree, whereby foreigners already established in France, as well as those who may take up their residence here in future, are required to make to the local authorities a declaration of their identity and nationality, and produce documents in proof thereof. This requirement can afford no ground for legitimate protest on the basis of our treaty obligations, inasmuch as the fulfillment of the prescribed formalities will be accompanied by no charge or tax of any kind. Moreover, it must of course be clearly understood that these regulations will apply only to foreigners definitively domiciled in France or who propose making a long stay, so that persons visiting the country on business or pleasure will be in no way affected.

[Inclosure 2 in No. 684—Translation.]

THE PRESIDENTIAL DECREE.

ART. I. Every foreigner not admitted to domicile, but who purposes taking up his residence in France, must, within fifteen days of his arrival, make, at the mairie of the commune in which he intends to establish himself, a declaration setting forth:

(1) His family and baptismal names, as well as those of his father and mother; (2) His nationality; (3) The place and date of his birth; (4) His last place of domicil; (5) His profession and means of existence; (6) The name, age, and nationality of his wife and children under age when he is accompanied by them.

He must produce all necessary documents in support of his declaration. Should he not possess these documents, the mayor may, with the approval of the prefect of the department, accord him a delay in order to procure them.

A formal receipt in acknowledgment of this declaration will be delivered without charge.

ART. II. In Paris the declaration must be addressed to the prefect of police, and in Lyons to the prefect of the Rhône.

ART. III. In case of a change of residence, a fresh declaration must be made before the mayor of the commune where the foreigner has elected his new domicil.

ART. IV. Foreigners actually residing in France, but who have not been admitted to legal domicil, are allowed a month to comply with the foregoing regulations.

ART. V. Infractions of the formalities established by the present decree will be subject to the penalties of "simple police," without prejudice to the right of expulsion possessed by the minister of the interior in virtue of the law of the 3d of December, 1849.

ART. VI. The president of the council and minister of the interior are intrusted with the execution of this decree.

Given at Paris the 2d of October, 1888.

The President of the Republic signed the decree, in accordance with the premier's report.

No. 409.

Mr. McLane to Mr. Bayard.

[Extract.]

No. 692.] LEGATION OF THE UNITED STATES,
Paris, October 19, 1888. (Received October 29.)

SIR: On the 16th instant I sent you a telegram as follows, the object of which was simply to confirm the views expressed in my previous political communication:

Referring to my No. 665, and confirming it, find explanation of the vote of confidence obtained by the Floquet ministry yesterday in the Chambers.

I advised you, in my No. 665, that Mr. Floquet had determined to make the question of revision a cabinet question when the Chambers met, and that though he had reserved this question when he thought its presentation was calculated to assist the opposition concentrating itself against the Government, he was not willing to surrender the programme on which he and his colleagues had organized the present cabinet. The moderate Republicans, as I advised you, opposed bitterly all concession to those in favor of revision, and for some time it was doubtful whether Mr. Floquet would be able to unite his cabinet in support of the programme referred to. He resolutely maintained his purpose and executed it with great parliamentary tact, uniting a large majority of the Republicans in the Chambers and putting the entire opposition of every hue in the minority and apparently against revision, as he contrived to consolidate the vote into one of confidence as well as one favorable to revision.

General Boulanger voted with the opposition, but he took with him only four or five of his adherents, and Mr. Ferry, with his principal adherents, abstained from voting, leaving Mr. Floquet in possession of the Republican party.

I have, etc.,

ROBERT M. MCLANE.

No. 410.

Mr. Bayard to Mr. McLane.

[Extract.]

No. 393.] DEPARTMENT OF STATE,
Washington, October 26, 1888.

SIR: Your dispatch No. 682, of the 5th instant, transmitting the return of passports issued by your legation during the quarter ended September 30, 1888, has been received.

On examination of the applications therewith forwarded, a serious irregularity is discovered in No. 786, dated July 23, 1888. The applicant, Jules Jacobs, therein avers under oath that he was born at Metz, in Lorraine, on the 29th day of August, 1852, and that he was naturalized before the superior court of New York City on the 17th day of October, 1872. The latter date, being taken from the certificate of naturalization exhibited to you, is presumed to be correct.

If the date of Mr. Jacobs's birth is also correctly given, it follows that he was naturalized some ten months before coming of age, which could *only* be accomplished by perpetrating a fraud upon the court granting the decree. The facts in the case should be carefully investigated; and if the presumption of fraud be not clearly dispelled the passport thus improvidently granted should be promptly withdrawn and cancelled.

The greatest care should be exercised in accurately ascertaining the several dates to be inserted in a passport application, and especially those which purport to establish the validity of the applicant's claim to citizenship.

I have, etc.,

T. F. BAYARD.

No. 411.

Mr. Bayard to Mr. McLane.

No. 394.] DEPARTMENT OF STATE,
Washington, October 29, 1888.

SIR: I have to acknowledge the receipt of your No. 684 of the 4th instant in relation to the decree of the French Government of the 2d ultimo, requiring foreign residents in the Republic to register themselves within fifteen days from the date of the decree, unless they should have done so previously. It is understood by the Department that the difficulties which it was anticipated the decree would produce for foreign residents in France have not been realized owing to an amelioration of the apparent requirements of the decree by the French Government.

It seems therefore unnecessary to enter into an elaborate discussion of the points mentioned in your dispatch, but it is proper to notice the suggestion therein made in regard to the question of domicil as connected with applications made to you for passports. Persons who have no intention of ever returning to the United States, or, what is the same thing, who do not know their own minds on the subject, are not, as you have been already instructed, entitled to the evidence of protection by the United States which is afforded by a passport. On the other hand, those who can not name a precise date for their return are not necessarily to be denied the possession of such evidence, for a distinction, which should be carefully borne in mind, exists between a fixed intention to return and an intention to return at a fixed date. The existence of the former state of mind must be established by competent evidence, to your satisfaction, before you may issue a passport; the existence of the latter intention is merely cumulative evidence on the point.

Upon these conclusions, already fully communicated to you, it is not necessary to enlarge. The Department adheres to its former instructions upon the subject, and can not strike out of its printed passport applications those inquiries which go to test the question of abandonment of American citizenship.

But it is not to be understood that the Department in so instructing you intends to introduce any novel doctrines or to extend its instructions in any respect beyond the precise point involved—the issuance of passports by our legations abroad. While resolute in claiming for domicil all the rights attached to it by the law of nations this Department is equally resolut in insisting that the term "domicil" should not be enlarged so as to make it convertible with "residence." Important reasons may be assigned for this, which will at once suggest themselves to you.

I am, sir, etc., T. F. BAYARD.

No. 412.

Mr. Bayard to Mr. McLane.

No. 395.] DEPARTMENT OF STATE,
Washington, October 30, 1888.

SIR: Supplementing the Department's instruction to you, No. 393, of the 26th instant, in relation to the evidence upon which passports were issued by your legation during the past quarter, I have to invite your

attention to the application of Mr. Stephen L. Heidenheimer, No. 773, upon which a passport was issued July 20, 1888.

Mr. Heidenheimer therein swears that he was born at Offenbach, Germany, on or about the 16th day of August, 1848; that he emigrated to the United States by the *Australasia* in 1866 (date of voyage not given); that he resided in the United States five years uninterruptedly, from 1866 to 1871; that he was naturalized before the court of common pleas of New York City on the 26th of April, 1871, as shown by his certificate of naturalization duly exhibited; that six days thereafter, to wit, on the 2d day of May, 1871, he received passport No. 11,314 from the Department of State; that he left the United States on the *Java* in 1871 (date of departure not given); that he has resided at No. 14, rue Martel, in Paris, since 1871; and that he intends to return to the United States "in or about a few years." The accompanying certificate of identification is signed by Mr. J. L. Rathbone, consul-general.

The facts as above stated, disclosing naturalization early in the fifth year of residence in the United States and immediate removal from this country, followed by a continuous residence abroad for some seventeen years, coupled with the vague and wholly unsatisfactory declaration of the essential intention to return, suggest a very doubtful case of title to protection as an American citizen during such extended residence, with presumption of domicile, abroad.

The Department has consequently made inquiry with a view to supplying the dates omitted from Mr. Heidenheimer's affidavit and thus removing or confirming the doubts suggested, with the following results:

(1) The surveyor of the port of New York reports in a letter dated the 26th instant that the steamship *Australasia* arrived at New York four times in 1866, and that on none of those voyages does Stephen E. Heidenheimer appear as a passenger, but that "the passenger list of the voyage ending November 1 shows the name of Edward Heidenheim, aged 18; occupation, gentleman; country, Germany." The age so given agrees with that of Stephen E. Heidenheimer, who was born as stated, August 16, 1848.

(2) The passenger list of the steamship *Java*, leaving New York May 10, 1871, as found printed in the New York Times of May 11, 1871, contains the name of E. Heidenhimser.

(3) The place, court, and date of naturalization, and incidentally the date of birth of Mr. Stephen E. Heidenheimer, are found verified by the Department's record of the issuance of a passport to him on the 2d day of May, 1871.

The application in question is apparently filled up, except the phrase "or about a few years," in the handwriting of Mr. Augustus Jay, who signs as having administered the prescribed oath to Mr. Heidenheimer; and while the discrepancy as to the name of the vessel by which the applicant came to the United States, given in the application as *Australasia* and in the surveyor's report as *Australasian*, remains unexplained, it is reasonable to attribute an error to the perfunctory filling up of the blank.

The inference from the facts, as thus stated and verified, is that Mr. Heidenheimer arrived in the United States November 1, 1866; was naturalized April 26, 1871, after a residence in the United States of only four years five months and twenty-six days; obtained a passport immediately thereafter; within fourteen days from the date of his naturalization departed from the United States, and has since resided seventeent years abroad, with no apparent intention whatever of returning.

Unless this inference and the testimony upon which it rests is disproved, the case is one of unlawful naturalization obtained by fraud upon the court, for the sole purpose of securing in a foreign land permanent protection as a citizen of the United States.

The circumstance of Mr. Heidenheimer's immediate departure from the United States and complete evasion of the duties and burdens of our citizenship would of itself have enjoined caution in issuing to him legal evidence of a continued right to our protection; while the omission to furnish important dates essential to a judgment as to the validity of his claim to lawful citizenship should have excited suspicion and caused investigation.

On the facts before your legation, the passport in question was improvidently issued. On the facts as now collected by the Department, Mr. Heidenheimer has no right to a passport.

You should at once investigate the case, which you can readily do in view of Mr. Heidenheimer's permanent residence in Paris and his identification by the consul-general, and unless it should be conclusively established, by evidence of judicial value, that he arrived in the United States on or prior to the 26th day of April, 1866, and that his residence abroad is not in abuse of the high right of protection as an American citizen which he claims, you will withdraw the passport.

To show the bona fides of Mr. Heidenheimer's claim, very positive evidence should be forthcoming to explain his sojourn abroad for seventeen years without renewing his passport, as contemplated by the regulations in force all that time.

Your prompt report in this case will be awaited with interest.

I am, etc.,

T. F. BAYARD.

No. 413.

Mr. McLane to Mr. Bayard.

No. 707.] LEGATION OF THE UNITED STATES,
Paris, November 12, 1888. (Received November 26.)

SIR: I have the honor to acknowledge the receipt of your No. 395 in reference to the passport issued to Mr. Stephen E. Heidenheimer by this legation on July 20, 1888. If the fact stated in your dispatch is correct that Mr. Heidenheimer was fraudulently naturalized, and it certainly appears to be so, I will promptly withdraw the passport in question, but I beg your attention to the declaration made by him to this legation, which did not, to my mind, suggest the idea that he did not reside uninterruptedly five years in the United States and which, therefore, did not raise presumption that the naturalization was fraudulent, while the exhibition of a passport received from the Department of State naturally confirmed Mr. Heidenheimer's declaration as to his naturalization, of which the Department of State must have assured itself before issuing the passport on the 2d of May, 1871, to which state of facts the identification by Consul-General Rathbone gave further confidence.

Mr. Jay, whose handwriting you recognize in the declaration, reports to me that he remembers this case; that he noted Mr. Heidenheimer's inability to fix the exact date of his arrival in the United States, but as Mr. Heidenheimer told him it was some time in the early part of the year 1866, he attributed this inability to simple forgetful-

ness after the lapse of twenty-two years. Of course he was influenced by Mr. Heidenheimer's oath that he had resided five years uninterruptedly in the United States, by his exhibition of his certificate of naturalization and of the passport from the Department of State, and by his obtaining a proper identification, to all of which I have just referred.

Mr. Jay also reminds me that he called my attention to the fact that Mr. Heidenheimer had left the United States very soon after naturalization and had resided seventeen years abroad, but as that residence had been in France, and not in Germany, the country of his origin, and as he swore to his bona fide intention to return to the United States, he was considered to be entitled to a passport.

As to the phrase in the declaration indicating his intention to return to the United States, it is certainly vague, and I will impress upon the legation that while we may not be able to fix the time of return specifically, we will endeavor not only to satisfy ourselves that it is the real intention of the applicant to return, but will seek as much certainty as possible in the phrase indicating this intention.

In this connection I have considered your No. 394, and have replied thereto assuring you that though I may not be able to fix the time of an applicant's return, I would satisfy myself that he really intends to return.

I have, etc.,

ROBERT M. MCLANE.

P. S.—Since writing the foregoing dispatch *Mr. Heidenheimer has returned his passport* and has promised to obtain evidence that he went to the United States in the beginning of 1866, and was therefore entitled to his certificate of naturalization. I will address you further on the subject if I receive such evidence.

ROBERT M. MCLANE.

No. 414.

Mr. McLane to Mr. Bayard.

No. 710.] LEGATION OF THE UNITED STATES,
Paris, November 17, 1888. (Received November 28.)

SIR: Referring to the postscript of my No. 707, I have to report that Mr. Heidenheimer called at the legation this morning according to his promise, and made substantially the following declaration:

He states that he has made inquiries of his friends in Germany as to the time of his original departure from that country and arrival in New York, these friends being at that time in New York in the business house of L. Heidenheimer & Co., and he now recognizes the fact that he was the Heidenheimer who arrived in New York the 1st of November, 1866. His proper name is Stephen Emil Heidenheimer. He is now, however, and always has been in the habit of calling himself and signing his name Emil Heidenheimer, and, though he can not explain it, he readily acknowledges that the Edward Heidenheimer on the passenger list of the *Australasian* must have been himself.

He alleges that when he applied to the court for naturalization in 1871, it was with a view of leaving the United States for Germany on account of his health which was very much shattered by a surgical

operation and illness in 1870, Dr. L. Weber, of New York City, being his physician, who is now living in the city of New York.

He alleges further that it was his intention to return to the United States as soon as his health would permit, and he affirms that at this time he had no intention of defrauding or misleading the court. He says he can not remember the circumstances connected with his naturalization, or whether his applying in April arose from ignorance of the requirements of the law or a mistake as to the date of his arrival.

Mr. Heidenheimer states that he was employed in the house of L. Heidenheimer & Co., of New York, composed of his uncle and father, an importing house of high character, established in New York as early as 1848, and which from that time forth stood very high in the community, and was frequently called on by the United States Treasury Department and by the collector of the port of New York to act as experts in disputed cases, and paid large sums itself into the Treasury of the United States as duties, both before and after the civil war.

He earnestly appeals to me to ask you to accept his affirmation that when he made his application to be admitted as a citizen of the United States he had no intention of perpetrating a fraud upon the court, and that he was sincere in representing to this legation that he had arrived early enough in the year 1866 to constitute a residence therein of five years, and he alleges that it was his illness in 1870 and in 1871 which incapacitated him from a correct understanding of his case at that time, and which must account for his alleged ignorance as to the law and facts connected with the time of his arrival in the United States.

I have explained to Mr. Heidenheimer the distinction which I think exists between his right to a passport and his right to claim American citizenship, the former being entirely subject to the discretion of the Department of State, the latter subject to the jurisdiction of the court authorized by law to issue certificates of naturalization, and that the first question should be promptly submitted by me to your judgment upon the foregoing statement of his case. I have informed him further that I would hold in my possession the passport issued to him by this legation until I could receive your instructions in the premises, which I beg you to send me at your convenience.

As to his naturalization itself I have informed him that he should make application to the court that issued the certificate, stating that he has been informed that his citizenship was invalid or open to question and that he desired it by a new proceeding to establish his citizenship beyond a doubt.

I shall withhold from Mr. Heidenheimer, until I hear further from you, the passport he received in 1871 from the Department of State and which he was required to surrender to this legation by the terms of the declaration made when he applied for a passport here.

I am, etc.,

ROBERT M. MCLANE.

No. 415.

Mr. Bayard to Mr. McLane.

No. 406.] DEPARTMENT OF STATE,
Washington, December 8, 1888.

SIR: Your dispatch No. 710, of the 17th ultimo, in relation to the issuing of a passport to Mr. Stephen Emil Heidenheimer has been received. You therein report that after inquiries for the purpose of

refreshing his memory on the subject, Mr. Heidenheimer now recognizes and admits the fact that the "Edward Heidenheimer" who arrived in New York on board the *Australasian* on the 1st of November, 1866, was in fact himself, notwithstanding the error in the name as it appears on the steamer's passenger list. Mr. Heidenheimer further states that when he applied to the court for naturalization in 1871, it was "with a view of leaving the United States for Germany on account of his health," that he then intended to return to the United States when his health would permit, and that he had no intention of defrauding or misleading the court which naturalized him, but is, at this lapse of time, unable to state whether his application six months before the earliest legal date arose from ignorance of the law or a mistake as to the date of his arrival. Mr. Heidenheimer does not explain why he has never carried out his intention of returning to the United States, or why he supposed he needed to be naturalized in order to return to Germany, but he contents himself with appealing to have his affirmation accepted, that he had no intention of perpetrating a fraud when he applied for naturalization, and was sincere in representing to your legation that he had resided for five years in the United States. His ignorance of the law and facts in regard to the time of his arrival in the United States he attributed to his illness in 1870 and 1871.

You have properly explained to Mr. Heidenheimer the distinction between the right to receive a passport and the right to become naturalized under the laws of the United States.

The duty of the courts is imperative (see section 2170, Revised Statutes), and they have, therefore, no discretion in the matter, and Mr. Heidenheimer's protestations of innocent intent can not confer jurisdiction upon the court to validate the act of naturalization which was admittedly obtained by false representations.

The discretion of the Secretary of State in issuing passports does not permit issuance to a person not a citizen, which is expressly prohibited by section 4076 of the Revised Statutes, which provides that—

> No passport shall be granted or issued to, or verified for any other persons than citizens of the United States.

In the present case Mr. Heidenheimer has confessed that his certificate of naturalization was obtained by means of false statements to the court, whether ignorantly made or not is immaterial. He is not a citizen of the United States, and there in no authority for the issuance to him of a passport or other certificate that he is such citizen.

The Department can exercise no authority and express no opinion as to the judicial methods by which the defects in Mr. Heidenheimer's naturalization, now fully admitted, can be cured after seventeen years' interruption of that continued residence which the law makes a condition precedent.

You will cancel the passport heretofore issued by you to Mr. Heidenheimer, and you will return hither the passport issued to him in 1871 by this Department.

I am, etc.,

T. F. BAYARD.

CORRESPONDENCE WITH THE LEGATION OF FRANCE AT WASHINGTON.

No. 416.

Mr. Roustan to Mr. Bayard.

[Translation.]

LEGATION OF FRANCE,
Washington, December 20, 1887. (Received December 21.)

Mr. SECRETARY OF STATE: By order of my Government I have the honor to inform the Government of the United States that Mr. Jules Grévy having sent in his resignation, the senate and chamber of deputies, united in national assembly at Versailles the 3d of this month, have elected and proclaimed Mr. Carnot President of the French Republic.

The firm resolve of the new President and his cabinet is to maintain the good relations existing between the Government of the Republic and foreign powers, and thus to contribute to the assurance of peace; but I am charged, Mr. Secretary of State, to express to you in a peculiar manner the value which France attaches to the bonds of cordial amity which exist between our two countries.

Be pleased, etc.,

TH. ROUSTAN.

No. 417.

Mr. Bayard to Mr. Roustan.

DEPARTMENT OF STATE,
Washington, December 24, 1887.

SIR: I have the honor to acknowledge the receipt of your note of the 20th instant, in which, by direction of your Government, you inform the Government of the United States that Mr. Jules Grévy having resigned, the senate and chamber of deputies, in national assembly at Versailles, on the 3d instant, elected and proclaimed Mr. Carnot as President of the French Republic.

The peculiarily friendly relations which have so long subsisted between our two countries have caused the progress of the French Republic to be watched with special interest and satisfaction by the Government and people of the United States. And the resolution, to which your note gives expression, of the new President and his cabinet to maintain the good relations between the Government of the Republic and foreign powers, and thus contribute to the assurance of peace, serves only to confirm and make more confident the cordial wishes of this Government for the peaceful development and prosperity of France.

Accept, sir, etc.,

T. F. BAYARD.

No. 418.

Mr. Roustan to Mr. Bayard.

[Translation.]

LEGATION OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, April 26, 1888. (Received April 27.)

Mr. SECRETARY OF STATE: I have the honor to transmit to you copy of the annexed circular, by which my Government informs me that all the powers signing the convention of March 14, 1884, for the protection of submarine cables, have adopted the measures of legislation or regulation contemplated by article 12 of that international instrument.

You will also find hereto annexed in addition to the list of all the States which have ratified the convention, ten copies of a pamphlet containing a translation of the measures adopted subsequently to the adjournment of the conference by the Argentine Republic, Austria-Hungary, Brazil, the United States, and Roumania.

I am, moreover, advised, and I have the honor to inform you that by a decree published in the Journal Officiel of the 25th of April, instant, the international convention for the protection of submarine cables has been put into operation to date from the 1st of May.

Accept, etc.,

TH. ROUSTAN.

[Inclosure.—Translation.]

Mr. Flourens, minister for foreign affairs, to Mr. Roustan, minister of France at Washington.

PARIS, *March* 30, 1888.

MONSIEUR: By my circular of the 22d of September last I requested you to communicate to the Government to which you are accredited the procès-verbaux at the last meeting of the international conference held at Paris, to the end of putting into operation the convention of March 14, 1884, for the protection of submarine cables.

As I explained to you in that communication, the powers signing the convention in question agreed in a protocol drawn up by their plenipotentiaries on the 7th of July last, that the international instrument of the 14th March, 1884, should take effect the 1st of May, 1888, under the condition, however, that at that date such of the contracting governments as had not yet adopted the measures contemplated by the 12th article of the aforesaid international instrument should have conformed to that clause.

It appeared, moreover, to the conference (see the procès-verbaux, page 204) that it only remained for five States, the Argentine Republic, Austria-Hungary, Brazil, the United States, and Roumania, to adopt the measures in question.

Conformably to the stipulation numbered II, of the above mentioned protocol of the 7th of last July, the Government of the French Republic has received from these five powers, since the closure of the conference, the text of the laws or regulations adopted by them in execution of article 12; and after the examination of the tenor thereof, it is found that these measures of legislation or regulation respond fully to the stipulations of the convention.

I have the honor to transmit to you, herewith, ten copies of a pamphlet containing the translation of these measures, and would be obliged to you if you would cause them to reach the Government of the United States in communicating to it a copy of this circular.

The condition whereunto the contracting powers had subordinated the taking effect of the international convention of the 14th March, 1884, on the 1st of May next, being fulfilled, that convention is therefore to be put into operation on the date stipulated.

I would beg of you, to this end, to ask the Government to which you are accredited

to be pleased to take the necessary steps, so far as it is concerned, and I would attach importance, moreover, to knowing as promptly as possible the result of your communication.

Accept, sir, etc.,

FLOURENS.

P. S.—I would call to mind, on this occasion, that Japan has, subsequently to the signature of this international instrument, acceded to the convention of 1884, and also that the Government of the Republic gave notice thereof to the different governments by its circular of the 29th of April, 1884.

You will find hereto annexed a complete list of the States which have ratified the convention.

List of States which have ratified the convention of March 14, 1884.

Germany, Argentine Republic, Austria-Hungary, Belgium, Brazil, Costa Rica, Denmark, Dominican Republic, Spain, United States of America, France, Great Britain, Guatemala, Greece, Italy, Netherlands, Portugal, Roumania, Russia, Salvador, Servia, Sweden and Norway, Turkey, Uruguay.

Japan adhered to the convention, April 12, 1884.

NOTE.—Persia and the United States of Colombia, enumerated among the contracting States in the convention of March 14, 1884, have not ratified the convention.

GERMANY.

No. 419.

Mr. Coleman to Mr. Bayard.

No. 496.] LEGATION OF THE UNITED STATES,
Berlin, August 25, 1887. (Received September 12.)

SIR: I have the honor to transmit herewith a copy of my note of to-day addressed to the foreign office in execution of your instruction of July 9, 1887, directing that the German Government be invited to co-operate with that of the United States to the end of reducing or abolishing, by reciprocal action, tonnage and equivalent dues on navigation.

In further execution of your instruction I addressed, under date of the 17th instant, a communication to Mr. von Versen, our vice and acting consul-general here, requesting him to cause the legation to be furnished with reports from the consular officers of the United States residing at the German sea-ports, showing what discrimination, if any, with respect to tonnage or equivalent dues, existed at their respective ports against our vessels as compared with those of Germany or of any third country. In response to my request Mr. von Versen has written as follows:

In reply permit me to state that on the question under consideration repeatedly reports have been rendered to the Department of State, as you will see from the inclosed copy of a report from this office to the Department of State (dated July 5, 1887), and that all reports having passed through this office from our consuls at German sea-ports, dwelling on the same subject, have answered the same question in the negative.

I await, therefore, your directions whether or not under such circumstances you still desire me to address the consuls with reference thereto.

In answer to his communication I informed Mr. von Versen that it would not be necessary to address the consuls on the subject again at present.

Hoping my execution of your instructions will meet with your approval,

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure in No. 496.]

Mr. Coleman to Count Berchem, August 25, 1887.

F. O., No. 310.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, August 25, 1887.

The undersigned, chargé d' affaires *ad interim* of the United States of America, has the honor, acting under instructions from his Government, to invite the attention of Count Berchem, acting imperial secretary of state for foreign affairs, to an act of Congress, approved June 19, 1886, entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," of which act, as also

of the prior act of June 26, 1884, therein referred to, copies are herewith inclosed, and to extend to the Imperial Government the invitation authorized by section 12 of the act of June 19, 1886, to co-operate with the Government of the United States toward the contemplated ends.

The following provisions are found in the act of June 19, 1886:

[Here were quoted sections 11, 14, 12, and 17, as found in the circular instruction of the Department of State of July 9, 1887.]

It will be seen that the provisions of the sections above quoted are broad enough to cover either a reduction or a complete abolition, by reciprocal action, of tonnage and equivalent charges on navigation; and it is open to any foreign country in all or any of whose ports a less charge is made than that now imposed in the ports of the United States to obtain forthwith a reduction of the charge in the United States on vessels coming from such port or ports to an equality with that levied in the port or ports designated. An example of this is furnished by the arrangement lately entered into between the Government of the United States and that of the Netherlands, as shown by the inclosed copy of the President's proclamation of April 22, 1887, whereby complete exemption from tonnage dues is secured to all vessels, of whatever nationality, entering ports of the United States from the ports of the Netherlands, in Europe, or from certain named ports of the Dutch East Indies.

It is to be observed that the invitation herein contained is extended equally to all countries, both those having ports within the geographical zone to which, under the shipping acts of 1884 and 1886, the rate of 3 to 15 cents per ton applies, and to those which have no ports within that zone, and to which the rate of 6 to 30 cents per ton now applies. The rate of 3 to 15 cents per ton was geographical, and involved no test of flag. The object and intent of the present invitation is to deal, on the basis of reciprocity, with countries as nationalities, whether situated within or without the geographical limits referred to.

In communicating the invitation herein contained, the undersigned is instructed to convey to the acting imperial secretary of state for foreign affairs the fullest assurance of its entire friendliness, and of the desire of the United States to treat the commerce and flag of Germany on the footing of the most complete reciprocity in those matters to which the invitation relates.

The undersigned avails himself, etc.,

CHAPMAN COLEMAN.

No. 420.

Mr. Coleman to Mr. Bayard.

No. 502.] LEGATION OF THE UNITED STATES,
Berlin, September 12, 1887. (Received September 24.)

SIR: I have the honor to transmit herewith certain correspondence relating to the case of Peter Mackeprang, a naturalized citizen of the United States, whose application for the intervention of this legation for the purpose of securing the withdrawal of an order of expulsion issued against him by the Prussian authorities I have felt constrained to refuse.

Our consul at Hamburg presented Mackeprang's application to this legation in a communication of the 11th of July last, which with its inclosures furnished the following facts:

Mackeprang was born April 24, 1848, at New Gellingsdorf, in Prussia, and emigrated in the fall of 1868, at the age of liability to perform active military duty, to the United States, where he claims to have been naturalized in 1873, submitting in proof of his American citizenship passport No. 7403 issued by the Department of State, under date of July 15, 1886. Early in June of the present year he returned to his native place with the intention, judging by his subsequent action, of remaining there permanently, since, on the occasion of an earlier visit made to that place about a year ago, he stated in response to the announcement that he had become liable to a fine of 300 marks that he would return again in a year to pay the fine and renew his allegiance to Prussia.

Under date of June 18 last, the royal government of Schleswig Holstein informed Mackeprang, in reply to his verbal application of the 4th of that month for re-admission to Prussian nationality, that his wish could not be granted; and under date of the 29th of that month he received, to a further application he is presumed to have made, a notification from the authorities confirming the refusal to re-admit him to Prussian nationality, but informing him that he would be permitted to continue his sojourn in that country until the 31st of July following, provided he demeaned himself properly. Finally, on the 18th of August last, he received a peremptory order to leave Prussia on the 31st of that month under penalty of forcible transportation beyond the frontier.

Such explanation as Mackeprang has furnished after long delay, in response to a request from the minister, in a letter accompanying a communication of the 1st instant from Consul Lang, at Hamburg, I have not found satisfactory, and have so stated in a communication addressed to that officer on the 3d instant, in which I inform him that in view of the circumstances of the case I should not feel justified in intervening for Mackeprang.

I have waited some days before reporting this case, in order that I might transmit with my report any further communication Mackeprang, who, I am informed by Consul Lang, has been awaiting the decision of the legation at Hamburg, to which place the order of expulsion does not apply, might see fit to make. No further communication has, however, been received from him.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure 1 in No. 502.]

Mr. Lang to Mr. Pendleton.

UNITED STATES CONSULATE,
Hamburg, July 11, 1887.

SIR: At the request of a Mr. Peter Mackeprang I have the honor to submit herewith his passport, certificate of the mayor of New Orleans, letter from the royal government at Schleswig, letter from the Kirchspielvogtei at Burg-auf-Fehmarn, and "military case" blank, properly filled and signed.

Mr. Mackeprang prays for your intervention in his behalf with the foreign office, requesting that he may be permitted to reside in Fehmarn for another year.

I have, etc.,

WM. W. LANG,
United States Consul.

[Inclosure 2 in No. 502.]

Mr. Pendleton to Mr. Lang.

No. 2300.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, July 12, 1887.

SIR: Your letter of the 11th instant, in the matter of the threatened expulsion from Prussia of Mr. Peter Mackeprang, is received. Before it can be decided whether intervention in his behalf would be justifiable all of the circumstances of his application for re-admission into Prussian allegiance and of the cause of the refusal thereof must be known, also what reasons are given, if any, for his expulsion.

Your obedient servant,

FRED'CK V. S. CROSBY,
Second Secretary of Legation.

By direction of the minister.

[Inclosure 3 in No. 502.]

Mr. Lang to Mr. Pendleton.

UNITED STATES CONSULATE,
Hamburg, September 1, 1887.

SIR: On receipt of your favor of July 12 I addressed Mr. Mackeprang, giving him a synopsis of your letter, and requesting him to reply to the questions without delay. In reply I received the inclosed letter, dated July 16, which in no way answered your question regarding his application for re-admission to Prussian allegiance.

After an extensive correspondence with Mr. Mackeprang, which led to nothing, he this morning appeared at the consulate in person and presented the inclosed order from the royal Kirchspielvogtei at Burgdorf a. Fehmarn.

He states his case as follows:

About a year ago, when visiting his home (Gellingdorf a. Fehmarn), he was informed that he had become liable to a fine of 300 marks. He said that he would return in a year (1887), pay the fine, and renew his allegiance to Prussia. When he returned some months ago to carry out this intention he was informed by the authorities that they would not permit him to renew his allegiance, and handed the order which I transmitted to you in my respects of July 11.

They will neither inform him at Bergdorf nor at Schleswig why he is ordered to leave Prussia.

He states that he is an invalid, and that he desires to reside in Germany about a year, by the advice of his American physician.

At present he is residing in Hamburg, awaiting the result of your intervention in his behalf.

I have, etc.,

WM. W. LANG,
United States Consul.

[Inclosure 4 in No. 502.—Translation].

Mr. Mackeprang to Mr. Lang.

The American Consulate, Hamburg:

In compliance with your esteemed communication I called at the "Kirchspielvogtei" of this place in order to ascertain what reasons existed to forbid my longer sojourn in Germany. I was informed, however, by the said authorities that no reasen existed nor could any be found here, but that the consulate would have to apply to the government at Schleswig to ascertain the lawful reasons.

I respectfully request the consulate at Hamburg to intervene in my behalf with the government of Schleswig in order to become acquainted with the facts and to inform me of the same.

Most respectfully,

PETER MACKEPRANG.

NEU GELLINGSDORF A. FEHMARN,
July 16, 1887.

[Inclosure 5 in No. 502.]

Mr. Coleman to Mr. Lang.

No. 2424.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, September 3, 1887.

SIR: Replying to your letter of the 1st instant, and referring to other correspondence between this legation and your consulate, and particularly to the letter addressed to you by this legation under date of July 12 last, all relating to the threatened expulsion from Prussia of Mr. Peter Mackeprang, a naturalized citizen of the United States of German birth, I am constrained to say that I do not feel that I should be justified in intervening in his behalf with the German Government with the view of securing a withdrawal of the order expelling him.

Mr. Mackeprang has endeavored to divest himself of his American citizenship, has formally applied for re-admission to German nationality, and his application has been as formally refused. His reasons for taking such course, if he can indeed be regarded as having furnished any, are not considered satisfactory.

The circumstances of his case, and especially the facts of a prolongation of stay having been once granted him, and of the rejection of his application for re-admission into German nationality, indicate that in all probability intervention in his behalf, if it were proper to intervene, would not be successful.

I return Mr. Mackeprang's passport and the certificate of identification issued to him by the mayor of New Orleans.

I remain, etc.,

C. COLEMAN,
Chargé d'Affaires ad interim.

No. 421.

*Mr. Bayard to Mr. Pendleton.**

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 11, 1887.

Mr. Bayard informs Mr. Pendleton that from the reports of Mr. Sewall, United States consul-general at Apia, it appears that the state of affairs in Samoa is very distressing and that it can only be made worse by a continuance of the war. Mr. Sewall has been instructed to preserve a strict neutrality, but this Government is anxious in pursuance of its treaty with Samoa, to secure a peaceful adjustment of the difficulties and a considerate treatment of Samoans.

Mr. Pendleton is requested to suggest to the German Government the advisability of the immediate election of a king and vice-king, as agreed to in conference, and the issuance of identical instructions to the representatives of the treaty powers at Apia to favor such an election, leaving other matters discussed in conference for subsequent consideration.

No. 422.

Mr. Pendleton to Mr. Bayard

[Telegram.]

LEGATION OF THE UNITED STATES,
Berlin, October 13, 1887. (Received October 13.)

Mr. Pendleton informs Mr. Bayard that he has submitted the latter's proposal of October 11 to the consideration of Count von Bismarck, who showed him a telegram, dated September 17, from the German consul at Apia, which stated that all the important chiefs, who had assembled, after notice, on September 15, had formally recognized Tamasese as king; that the islands were quiet; but that the German men-of-war would remain for a few weeks in order, by the moral effect of their presence, to prevent any outbreak. The Count stated these statements were confirmed by a telegram dated September 20 from the German commodore.

Count von Bismarck seemed not to know that any definite agreement had been reached in conference in relation to the election of a king and vice-king.

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* The same, *mutatis mutandis*, was sent to Mr. Phelps.

No. 423.

Mr. Pendleton to Mr. Bayard.

No. 518.] LEGATION OF THE UNITED STATES,
Berlin, October 13, 1887. (Received October 26.)

SIR: On the receipt yesterday of your telegram of the 11th instant, I called on Count Bismarck, secretary of state for foreign affairs, at 6 o'clock in the evening, the hour which he had appointed to receive me. Without reading to him the telegram, I explained to him that the latest advices of the Department from Samoa represented the condition of affairs in the islands to be very bad, indeed, only to be made worse by the prolongation of the war there existing; that the consul of the United States had been instructed to preserve a strict neutrality, and was believed to have observed his instructions, but that the Government of the United States was anxious, in the spirit of its treaty with Samoa, to urge peaceful adjustment and fair treatment of the Samoans, and that in this spirit I was instructed to propose to the German Government an immediate election of a king and vice-king as agreed in the conference, and that the three powers should issue identical instructions to their representatives to promote such election. I told him that a like suggestion on your behalf would be made to the British Government by the minister of the United States at London. He listened, as he always does, with an attention almost painfully strained, to catch each word, and immediately replied that there had already been an election of king; that the last telegram from Apia had notified him of the fact. I expressed some astonishment, saying that I had no intimation of the fact from the Department, or in the newspapers, and that the knowledge of the fact by the Department seemed inconsistent with the proposal which I had just been instructed by telegraph that day to present to him. He rang for the telegrams, but as it was a late hour, and the person in charge of them had left the office, he asked me to return this morning at 11 o'clock, when I should see them.

He then fell into general conversation on the subject, saying that the conduct of Malietoa had become unbearable, maltreating the Germans, seizing and confiscating their property, and finally permitting, if not stimulating, outrages upon those who were properly celebrating the birthday of the Emperor; that the German Government had determined to deal with him personally, making war, so to speak, against his person, but not attacking the Government or people, or violating in any respect the rights or interests of foreigners, and especially the citizens of either of the other powers, the United States or Great Britain; that this determination had been notified to these powers, and seemed to be received, if not with approval, at least with acquiescence; that when the crisis actually came, Malietoa was received on a German ship with an assurance of protection and good treatment, and very much more to the same effect. He also said that the conference in Washington had not reached final conclusion, and had, he was advised, adjourned its sessions for a time, Alvensleben having obtained and entered upon his usual leave, and being now either on the ocean or already arrived in Germany. He also said that the German Government desired to maintain the good *entente* between the powers in regard to Samoa, upon the principles so well known to them all, and that while he does not conceive that the change of King can make any change in the relations of the three Governments to each other, or to Samoa, or the course they had adopted,

the German Government would be prepared to consider in the most friendly spirit any suggestion which might be made.

Returning at 11 o'clock this morning, Count Bismarck showed to me a dispatch from the consul at Apia, dated September 17, 1887, saying that all the important chiefs had been called to meet on the 15th of September, and that coming together they had recognized Tamasese as King, established and submitted to his authority; that quiet reigned on the island; there were no more disorders.

He showed me also a telegram from the German commodore at Apia of the 20th September, repeating somewhat in detail and generally the statements of the earlier telegram from the consul, and adding that the fleet would remain in those waters for several weeks, by the moral effect of its presence to restrain any tendency to outbreak or disorder, of which there was then, however, no symptoms.

I took the opportunity to repeat the tenor of your proposal, that there should be an immediate election of a King and Vice-King, as agreed by the conference, and that identical instructions should be given by the three powers to promote this end, laying some stress upon the words *as had been agreed by the conference*, and the propriety of identical instructions, etc.

The idea of a Vice-King seemed to be new to him. He said of course if the Samoans desired such an officer the German authorities would be too happy that they should be gratified, but that the suggestion should perhaps come from them. He repeated quite at length that the conference had not yet reached definite results, but had adjourned for a season, adding that this course was perhaps quite as well, as it would give an opportunity to observe how the new order of things would work, and with this additional knowledge the threads of discussion could be taken up where they had been broken; that there seemed to be no reason for haste just now, and that with new light on the status as it should then appear, all the Governments would go forward in the same spirit which had actuated them heretofore. He rather felicitated me that the laudable purpose of my Government in proposing the immediate election of a King, as a means of preserving the peace and order of the islands, had been anticipated by the Samoans, and that this having been so readily accomplished, and with happy results, there was nothing for the Governments to do in that direction.

I have, etc.,

GEO. H. PENDLETON.

No. 424.

Mr. Bayard to Mr. Pendleton.

No. 257]. DEPARTMENT OF STATE,
Washington, October 20, 1887.

SIR: Mr. Coleman's No. 502 of the 12th ultimo, informing me that he had declined to intervene in behalf of Peter Mackeprang against an order of expulsion, is received.

The correspondence in this case so incontestably shows Mr. Mackeprang's intention and attempt to divest himself of his acquired American nationality, and so evident a design to make Germany his place of residence that Mr. Coleman's course in refusing to make what would

probably have proved an ineffectual appeal to the German Government to reconsider the order for his expulsion from Prussian territory is fully approved.

I am, etc.,

T. F. BAYARD.

No. 425.

Mr. Pendleton to Mr. Bayard.

No. 526.] LEGATION OF THE UNITED STATES,
Berlin, October 24, 1887. (Received November 4.)

SIR: I send you herewith the originals and translations of two clippings.

One from the Berliner Tageblatt, copying from a Sydney journal, stating the force of the German fleet in the Australian waters.

One from the semi-official Nord-Deutsche Allgemeine Zeitung, giving the version of the foreign office here of the late transactions in Samoa.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 71—Berliner Tageblatt, October 23, 1887.—Translation.]

On the occasion of the attack of the German fleet on Samoa, about the end of August, the Sydney Morning Herald published the following observations, which are worthy of consideration:

"It has not escaped observers that the Germans support an uncommonly strong fleet in the Australian waters—a fleet which bears no proportion to the interests which they have to protect—and even if one believes that they will not at present attempt to oppose the wishes of England in reference to the scheme of South Sea annexation, nevertheless the fact that they are represented with such a force must occupy the attention not otherwise than very seriously of all interested parties. Taken ship for ship, they surpass the English fleet in these waters, and control a greater number of men. The *Nelson*, our strongest ship, has a speed of about 14 knots, and is partially armored. In the *Bismarck*, *Olga*, *Carola*, and *Sophie*, the Germans possess a quartette which can reach a speed of 13 to 14 knots, and is armed with modern Krupp's breech-loaders. All the ships of the royal navy which are here, with the exception of the *Rapid*, carry old-fashioned muzzle-loaders, and not a single one of them could contend with the Germans under even tolerably equal conditions. Besides the ships already named the Germans have in these waters also the corvette *Adler* and the gun-boat *Albatross*, so that their force consists of six ships, which carry about 52 guns and 2,000 men."

[Inclosure 2 in No. 71. Nord-Deutsche Allgemeine Zeitung, October 23, 1887.]

The New York Herald of the 10th instant published an original letter from Apia, dated 1st September of this year, which, calculating on the necessity for sensational news on the part of the American public, puts forth untrue statements about the pretended excesses of the German marines in Apia.

The correspondent, who without doubt is a sympathizer with the former consular officer of German extraction, removed by the American Government because of his odious conduct, indulges in anti-German inventions, which are in part malicious and in part silly. His statements of the German occupation of Samoa show of themselves to every one acquainted with the model description of the imperial merine, that they are the agreeable distortions and products of a fancy excited by the descriptions of the Indian battles in America. The conduct of the German troops landed in Apia has, in fact, given in nowise cause of complaint, and all the individual instances of outrages and threats against the inhabitants of Apia related by the American re-

porter are idle inventions. According to the reports which have reached here from Apia of those proceedings, the facts are simply these:

On the 24th of August last only the neighborhood of the government building in Mulinuu was taken into military possession, after the landing of the detachment of German marines, in consequence of the refusal of Malietoa to afford the satisfaction demanded. In order to insure the protection of the white inhabitants and foreign property, a guard was transferred to Apia and stationed on the property of the German hospital. Every injury to the foreigners or to the peaceably-disposed natives was carefully avoided. As no disturbance occurred among the populace, the guard which had been at first stationed before the government building was removed on the 25th of August. A further occupation of Samoan territory has not taken place. In the town of Apia trade was suspended partially only for an hour immediately after landing.

When the correspondent of the American journal undertakes to prophesy of the future that the condition of things in Samoa will continue to be threatening and the outbreak of a "fierce and bloody war" is probable, these groundless predictions found a settlement in the surrender of Malietoa without bloodshed and without violence, and the recognition of Tamasese as King on the part of all the influential chiefs.

Besides, it can be concluded, with satisfaction, from all the discussions of the American press over the proceedings in Samoa, that it is on all sides recognized that not the least occasion exists for an intervention by the United States, since the Imperial Government voluntarily declared that it desired scrupulously to observe all the treaty rights of America in the Samoan Islands.

No. 426.

Mr. Bayard to Mr. Pendleton.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 2, 1887.

Mr. Bayard informs Mr. Pendleton that Mr. Sewall, consul-general of the United States at Samoa, has reported that Tamasese has, with the aid of Germany, taken control of the municipality and left Americans without protection.

Mr. Bayard further states that he has telegraphed to Mr. Sewall that his powers with regard to American citizens and their interests do not depend upon the municipal government, and has again instructed him to maintain strict neutrality. Mr. Pendleton is instructed to inform the German Government that it is confidently hoped that in the discharge of his functions Mr. Sewall will not be interfered with by the representatives of Germany.

No. 427.

Mr. Coleman to Mr. Bayard.

[Telegram.]

LEGATION OF THE UNITED STATES,
Berlin, November 4, 1887. (Received November 5.)

Mr. Coleman informs Mr. Bayard that during an interview which he has had to-day with Count von Bismarck, in pursuance of Mr. Bayard's telegram of November 2, the count wholly acquiesced in Mr. Bayard's views with reference to the position of Mr. Sewell, United States consul-

general at Apia, and stated that as a matter of course Germany would not interfere. Her aid had only been given to preserve order, and she would faithfully adhere to the understanding between the treaty powers.

Count von Bismarck had on the previous day visited Prince Bismarck, who regretted that the two nations should differ as to affairs on those remote and unimportant islands while their relations elsewhere were so friendly, and suggested that a dispatch should be sent on the subject from the foreign office.

No. 428.

Mr. Pendleton to Mr. Bayard.

No. 538.] LEGATION OF THE UNITED STATES,
Berlin, November, 15, 1887. (Received December 3.)

SIR: I have the honor to report that in pursuance of instruction No. 214, of the 5th of May last, in reference to the arrest and eventual release of three Americans, Charles Schwalb, A. C. Postel, and Julius Postel, at Zurich, in consequence of a request to that effect by telegraph from the authorities of the Grand Duchy of Baden, I addressed a note to the foreign office, under date of May 31, 1887, and that on the 14th of this present month I received an answer from Count Berchem, temporarily in charge.

A copy of my note to the foreign office and the answer, with translation of the latter, are herewith inclosed.

It will be observed that the recital of the facts contained in the response of the foreign office gives the grounds for the suspicion on which the authorities of Baden asked the arrest of the parties implicated, and states that while in view of these grounds of suspicion no valid objection to the action of those authorities can be taken, nevertheless it is greatly regretted that an unhappy combination of circumstances subjected these citizens of the United States to such painful suspicions and to the consequent sufferings at Zurich.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 538.]

Mr. Pendleton to Count Bismarck.

F. O. No. 291.] LEGATION OF THE UNITED STATES,
Berlin, May 31, 1887.

The undersigned, envoy, etc., of the United States of America, has the honor to lay before His Excellency Count Bismarck-Schönhausen, imperial secretary of state for foreign affairs, the following statement of facts as they are alleged to exist.

It is represented that on the 27th day of July, in the year 1886, three citizens of the United States, named, respectively, Charles Schwalb, A. C. Postel, and Julius Postel, were arrested at the railroad station in the city of Zurich, in Switzerland, about 10 o'clock in the morning, and were detained in custody until 6 o'clock in the evening of the same day; that they were persons of good character and reputation, innocent of any crime, or complicity therein, or knowledge thereof, traveling for improvement and pleasure, and supplied with passports of the United States; that they had gone to the railroad station for the purpose of taking their departure from the city of Zurich, and were there arrested wholly without cause in the presence of a great number of people,

and were detained as suspected felons. They were consequently prevented from continuing their journey for many hours, and, in addition to this great inconvenience, were subjected to suspicions mortifying to them, and injuriously affecting their reputation, as if they had been guilty of crime and were justly subject to arrest and imprisonment as criminals. After being kept in custody for the whole day they were discharged without any explanation from the police authorities of Zurich of the cause of their arrest and detention, except that they must look for redress, if any could be had, to the power which had demanded their arrest.

When application was made to the Federal Government of Switzerland for explanation of these grave offenses against the rights and liberty of these innocent and inoffensive citizens, that Government very distinctly answered that these three men had been arrested solely at the demand of the attorney-general of the Grand Duchy of Baden at Mannheim, describing them as suspicious characters, giving their names and minute description of their persons, and requiring their arrest and detention, which demand, under the extradition treaty between Germany and Switzerland, must be in the first place complied with by Switzerland; that immediately after the arrest notice thereof was sent by telegraph to the authorities of Baden, and at 5 o'clock in the afternoon an answer was received saying the extradition of these men would not be demanded, and thereupon they were released from custody.

The Federal Government of Switzerland expressed great regret that the very unpleasant incident had occurred and the wrong had been done, but insisted that the authorities of the Grand Duchy of Baden were alone responsible for it, inasmuch as the police of Zurich acted in entire good faith, and wholly on the demand of the authorities of Baden in pursuance of the obligatory provisions of the treaty of extradition above named.

The undersigned is instructed by his Government to bring this statement to the notice of His Excellency Count Bismarck, and to request that he will kindly cause an investigation to be made, and advise the undersigned of the circumstances connected with this treatment, on the part of the authorities of Baden, of innocent and respectable citizens of the United States.

The undersigned avails, etc.

GEO. H. PENDLETON.

[Inclosure 2 in No. 538.—Translation.]

Count Berchem to Mr. Pendleton.

BERLIN, *November* 11, 1887.

The undersigned does himself the honor to inform the envoy extraordinary, and minister plenipotentiary of the United States of America, Mr. George H. Pendleton, that the case, mentioned in the note of the 31st of May last, of the three citizens of the United States who were arrested in Zurich at the request of the grand ducal authorities of Baden, has been made the subject of searching inquiry, whose result is to be found in the annexed report. As it appears from this report, the citizens of the United States in question, Karl Schwalb, A. C. Postel, and Julius Postel, were suspected of complicity in a theft at Heidelberg, and, in consequence of this suspicion, a prosecution was commenced against them, which led to their arrest in Zurich. Although the Grand Ducal Government has been able to find, on examination of the case, no ground on which the proceedings on the part of the grand ducal authorities, under the circumstances, can be objected to, nevertheless it regrets greatly that the said citizens of the United States have been involved in so painful a suspicion by reason of an unhappy concurrence of circumstances, and been exposed thereby to the inconveniences which they suffered in Zurich.

Whilst the undersigned unites in this expression of regret, he avails, etc.

BERCHEM.

[Inclosure 3 in No. 538.—Translation.]

Accompaniment to the foregoing inclosure.

BERLIN, *November* 11, 1887.

On the 12th July, 1886, a pocket-book was stolen from a Mr. A. Bodenstein on his journey from Darmstadt to Herrenalb, which contained 650 marks, in four 100-mark and five 50-mark notes. The theft was committed, as was supposed, at the railroad station in Heidelberg, and therefore inquiries were made especially in Heidelberg,

which were conducted by the grand ducal prosecuting attorneys of that city. Suspicion of the theft attached itself to three persons who lived in the hotel "Wiener Hof" at Heidelberg from the 17th to the 20th July, 1886, whose conduct appeared suspicious to the proprietor of the hotel, to his wife, and his servants. It appeared remarkable that the three guests arrived separately at the hotel, and departed from it separately, and bore themselves toward each other as if they stood in no connection with each other, although in fact they were traveling together. The observation of a waiter appeared particularly to give rise to suspicion, who noticed that they, in a moment when they were apparently unobserved, divided among themselves a number of bank-notes of exactly 100 marks each, and they hurriedly put away their pocket-books and separated as soon as they were aware that they were seen by the witness. The authorities of Heidelberg ascertained immediately afterwards that these said guests, Karl Schwalb, A. C. Postel, and Julius Postel, had left Heidelberg in the mean time and betaken themselves to Zurich. The grand ducal Baden prosecuting attorneys at Heidelberg requested the Zurich police to observe and eventually to arrest the parties concerned, having communicated the grounds of suspicion. In consequence the arrest took place on the 27th July of last year. Inasmuch as these grounds of suspicion were not further confirmed, an answer was sent on the same day to the inquiry by telegraph of the Zurich authorities, that the delivery of the prisoners was not demanded, only that before their discharge their personal description, the object of their journey, and their money, should be ascertained. This examination removed all suspicion from them, and the prosecution was thereupon discontinued.

The grand ducal authorities held themselves bound, after suspicion had been directed against these men, to investigate this suspicion in so searching a manner, as the city of Heidelberg at that time—July, 1886—on the occasion of the celebration of the five hundredth anniversary of the existence of the university, was frequented by a number of swindlers and pickpockets, whose appearance there made a sharp treatment and a close watch of all suspicious strangers necessary.

No. 429.

Mr. Bayard to Mr. Pendleton.

[Telegramr.]

DEPARTMENT OF STATE,
Washington, November 15, 1887.

The President expresses the sentiments of the people of the United States in offering his sincere sympathy to the Emperor in his grief on account of the Crown Prince's serious illness.

BAYARD.

No. 430.

Mr. Bayard to Mr. Pendleton.

No. 265.] DEPARTMENT OF STATE,
Washington, November 18, 1887.

SIR: I inclose copy of a letter, dated the 4th instant, from the Hon. W. W. Morrow, member of Congress from California, calling attention to the case of one Hans Jacobsen, of San Francisco, who alleges that he has been arrested while in the island of Alsen, on a charge of being a deserter from the German army.

You are instructed to bring the case to the notice of the imperial foreign office, with the request that it may be carefully investigated,

and if the facts prove to be as stated that Mr. Jacobsen may be speedily released from arrest, as his business interests in San Francisco are reported to require his presence there.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 265.]

Mr. Morrow to Mr. Bayard.

SAN FRANCISCO, *November* 4, 1887.

SIR: I inclose the affidavit of J. J. Olsen, setting forth the facts relating to the citizenship of Hans Jacobsen, of this city, who recently visited Germany, and it is reported has been arrested while on the island of Alsen, in the Baltic Sea, on a charge of being a deserter from the German army. I also inclose certified copy of act of naturalization.

As Mr. Jacobsen is a citizen of the United States, his friends desire that his case may receive the attention of the State Department to the end that such representations may be made to the German Government, through our minister at Berlin, as will show the right of Mr. Jacobsen to be discharged from further arrest.

Aside from the indignity to which Mr. Jacobsen has been subjected, and against which he has the right to invoke the protection of the United States, he has, I am informed, business interests in San Francisco that will greatly suffer from his detention elsewhere.

I am, therefore, requested to ask for this case the earliest attention possible.

I have, etc.,

WM. W. MORROW.

[Inclosure 2 in No. 265.]

Affidavit of J. J. Olsen.

STATE OF CALIFORNIA, *City and County of San Francisco, ss:*

J. J. Olsen, being duly sworn, on oath deposes and says: That he is a white male citizen of the United States of America, over the age of twenty-one years—to wit, of the age of thirty-two years; that he is at present, and has been for more than fifteen years last past, a resident of said city and county of San Francisco; that during the last nine years of said term affiant was well acquainted with one Hans Jacobsen; that said Hans Jacobsen was a native of Germany; that said Hans Jacobsen, on the 2d day of June, A. D. 1857, at said city and county of San Francisco, renounced and abjured all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, and particularly to William, Emperor of Germany, and was, on said 2d day of June, A. D. 1887, by an order of superior court of said city and county of San Francisco, duly given and made on said day, admitted and declared to be a citizen of the United States of America; that on or about the 25th day of July, A. D. 1887, said Hans Jacobsen departed from said city and county of San Francisco; that prior to said last-mentioned day said Hans Jacobsen had several times declared to affiant, during the course of a number of interviews held between said Hans Jacobsen and affiant, that it was his (said Jacobsen's) purpose and intention to visit his father and his native land; that he expected and intended that his said proposed trip should occupy and extend over a period of about two months, and that it was his purpose and intention to return immediately to his business and his home in San Francisco; that affiant is informed through friends of said Jacobsen in Germany, and verily believes, that shortly after said Hans Jacobsen reached his destination, he was, while on the island of Alsen, in the Baltic Sea, arrested on a charge of being a deserter from the German army, and affiant is informed and verily believes that said Jacobsen was afterwards carried to the town of Flensburg, Germany, where he was then, and ever since has been and still is confined and imprisoned on said charge.

J. J. OLSEN.

Subscribed and sworn to before me this 3d day of November, 1887.

LEE D. CRAIG,
Notary Public.

[Inclosure 3 in No. 265.]

No. 250.] NATURALIZATION CERTIFICATE OF HANS JACOBSEN.

In the superior court of the city and county of San Francisco, State of California.
Present, Hon. T. K. Wilson, judge.
In the matter of the application of Hans Jacobsen, an alien, to become a citizen of the United States of America, in open court, this 2d day of June, 1887.
It appearing to the satisfaction of this court, by the oaths of J. J. Olsen and Peter Christen, citizens of the United States of America, witnesses for that purpose, first duly sworn and examined, that Hans Jacobsen, a native of Germany, has resided within the limits and under the jurisdiction of the United States five years at least, last past, and within the State of California for one year, last past, and that during all of said five years' time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and it also appearing to the court, by competent evidence, that the said applicant has heretofore, and more than two years since and in due form of law, declared his intention to become a citizen of the United States, and having now here before this court taken an oath that he will support the Constitution of the United States of America, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, and particularly to William, Emperor of Germany;
It is therefore ordered, adjudged, and decreed that the said Hans Jacobsen be, and he is hereby, admitted and declared to be a citizen of the United States of America.

T. K. WILSON,
Judge.

HANS JACOBSEN,
Residence, 42 *Spear street.*

Witnesses:
PETER CHRISTEN,
Residence, Oakland.
JOHN J. OLSEN,
Residence, 42 *Spear street.*

OFFICE OF THE CLERK OF THE SUPERIOR COURT,
City and County of San Francisco, State of California:

I, William J. Ruddick, county clerk and *ex officio* clerk of the superior court in and for the city and county of San Francisco, State of California, said court being a court of record having common law jurisdiction and a clerk and seal, do certify that the above is a true copy of the act of naturalization of Hans Jacobsen as the same appears upon the records of said court now in my office.
In testimony whereof I have hereunto set my hand and affixed the seal of said court this 28th day of October, in the year of our Lord 1887, and in the year of our Independence the 112th.
[SEAL.]

WILLIAM J. RUDDICK,
Clerk,
By J. D. WISEMAN,
Deputy Clerk.

No. 431.

Mr. Pendleton to Mr. Bayard.

No. 540.] LEGATION OF THE UNITED STATES,
Berlin, November 21, 1887. (Received December 3.)

SIR: In the execution of your telegraphic instruction, received on the 16th instant, to convey to His Majesty the Emperor expression of the sympathy of the President and people of the United States in the heavy sorrow that has befallen him, I immediately addressed a note to the foreign office, and this morning received a response.
Copies of my note and the response, with translation, accompany this dispatch.
I have, etc.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 540.]

Mr. Pendleton to Count Bismarck.

F. O. No. 325.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, November 16, 1887.

The undersigned, envoy, etc., of the United States of America, has the honor to inform his excellency Count von Bismarck-Schönhausen, imperial secretary of state for foreign affairs, that he is this moment in receipt of a telegram from the Hon. Thomas F. Bayard, Secretary of State, in which the President, expressing his own and the sentiments of the people of the United States, offers heartfelt sympathy to his Imperial Majesty the Emperor of Germany in his sorrow because of the distressing affliction of His Imperial Highness the Crown Prince, and his best wishes for the alleviation and final cure of the illness of the illustrious sufferer and for His Majesty's continued health and prosperity.

The undersigned prays that his excellency Count von Bismarck will have the kindness to cause this message of condolence and good wishes of the President to be presented to His Majesty the Emperor, and begs to be permitted to join in the sentiments therein expressed, and avails, etc.,

GEO. H. PENDLETON.

[Inclosure 2 in No. 540.—Translation.]

Count Bismarck to Mr. Pendleton.

FOREIGN OFFICE,
Berlin, November 19, 1887.

The undersigned has not failed to bring to the attention of His Majesty the Emperor and King the polite note of the 16th of this month, wherein the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. George H. Pendleton, gives expression to the sympathy of the President of the United States and of the American people in the severe illness of His Imperial and Royal Highness the Crown Prince.

His Majesty was deeply moved by the warm and earnest words in which the friendly wishes for the imperial house and the German land were clothed.

By his high command the German chargé in Washington has been directed by telegraph to express to the Government of the United States the sincere thanks of His Majesty for the heartfelt sympathy of the President and the American people in the heavy sorrow which weighs upon the imperial house and the whole land.

Whilst the undersigned, at the command of His Majesty, permits himself at the same time to thank sincerely the envoy for the expression of his personal feelings, he avails, etc.,

H. BISMARCK.

No. 432.

Mr. Pendleton to Mr. Bayard.

No. 545.] LEGATION OF THE UNITED STATES,
Berlin, December 1, 1887. (Received December 19.)

SIR: The accompanying article, with translation, taken from the Berlin Gazette of the 1st instant, has not been contradicted, and shows that notwithstanding the exclusion of American pork, as well as that of Danish, Swedish, and Norwegian origin, the trichina of which the German Government seems to have such fear exists in the pork of German origin, and the disease prevails among those who eat the pork to an alarming extent.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure in No. 545.—Translation. -Berlin Zeitung.]

TRICHINA EPIDEMIC.

THURINGIA, *December* 30.

Not less than one hundred and fifty persons in Unterhainsdorf, near Reichenbach, have been attacked by trichinosis, and, alas, nearly all of them must die after endless sufferings. With greatly swollen bodies, earth-colored faces, lamed in all of their members, the unhappy ones await their release. Among the few who escaped the contagion is the teacher of the village, who strenuously insisted on the examination of the meat, which the host, who had slaughtered the hogs, refused, because he did not believe in trichina. The last victim up to this time (the thirty-third) is the tradesman Seifert in Unterhainsdorf. He was persuaded, on leaving the Malz Hotel, to buy a small sausage for 12 pfennigs, because it was delicate, followed the advice, and ate death in the sausage.

No. 433.

Mr. Pendleton to Mr. Bayard.

No. 546.] LEGATION OF THE UNITED STATES,
Berlin, December 1, 1887. (Received December 19.)

SIR: I inclose herewith an imperial decree and translation, issued on the 29th ultimo, prohibiting the importation of hogs and hogs' meat, including pork sides and sausages, from Denmark, Sweden, and Norway.

The newspapers have repeatedly lately announced the prevalence of a pestilence among hogs in Denmark to an alarming extent, and the precautionary measures to prevent its spread.

A day or two ago a royal decree was published forbidding the transportation of hogs from one part of the Kingdom.

I fear the present scare will be made use of by Germany to persuade Denmark to prohibit the importation of American pork, of which Mr. Anderson gave you an intimation in a late dispatch.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure in No. 546.—Translation.—Norddeutsche Allgemeine Zeitung, December 1, 1887.]

The official papers of yesterday publish the following decree concerning the prohibition of the importation of hogs, hogs' meat, and sausages of Danish, Swedish, and Norwegian origin:

We, William, by the grace of God German Emperor, King of Prussia, etc., decree in the name of the Empire, with the consent of the Bundesrath, as follows:

SEC. 1. The importation of hogs, of hogs' meat, including sides as well as sausages of all kinds, of Danish, Swedish, and Norwegian origin, within the boundaries of the Empire, is, until further orders, forbidden.

SEC. 2. The Imperial chancellor is authorized to allow exceptions to this prohibition, establishing the necessary precautionary measures.

SEC. 3. The decree goes into force on the day of its proclamation.

Given under our hand and Imperial seal, Berlin, the 29th November, 1887.

WILHELM.
v. BOETTICHER.

No. 434.

Mr. Pendleton to Mr. Bayard.

No. 547.] LEGATION OF THE UNITED STATES,
Berlin, December 3, 1887. (Received December 19.)

SIR: I have the honor to acknowledge the receipt to-day of your instruction No. 265, of the 18th ultimo, in reference to the case of Hans Jacobsen, arrested on the Island of Alsen, and lately confined in Flensburg, on the charge of being a deserter from the German army.

I inclose the correspondence had with the consul at Hamburg, by whom the attention of this legation was called to this case in October last.

The facts and the question are stated in the letter of Mr. Coleman, under date of October 12, 1887, written by my direction, and the reply of Consul Lang of October 20, with its inclosure.

From these papers, as well as from the statements made in writing to the consul by the friends of Jacobsen before the consul called my attention to the subject, it clearly appears that prior to his emigration to the United States, to wit, in the month of October, 1878, Jacobsen was summoned for military service; that he had presented himself, was examined, was accepted and enlisted. After enlistment he was allowed to return for a few days to his home, being ordered to report on the 5th November next ensuing. In the interval he left Germany without leave, going to the United States.

The case falls plainly within the definition of desertion "committed before emigration," as understood by the German authorities and by this legation, as shown by a practice unbroken, as I am advised, since the making of the treaty of 1868. By Article II of that treaty a naturalized citizen of one country returning to the other country remains liable to trial and punishment for an action committed before emigration. I therefore declined to intervene.

It will be observed that the case of Jacobsen after his arrest was sent to a military tribunal, which is never done in the case of mere offense against the civil law, as would be unlawful emigration. It will be also observed that in the inclosure of Consul Lang's letter of October 20 last I was given to understand that Jacobsen's own version of the facts in his case would be forwarded to me. As this has never been done, it is to be assumed that he is satisfied with the statement made in his behalf.

I note the instruction to present Jacobsen's case to the foreign office, but in view of the facts as herein stated, and of my former decision not to intervene, and the reasons for such decision, of which the Department was necessarily ignorant at the time when the instruction was written, I shall respectfully take the liberty to suspend compliance therewith until further instructed by telegraph or otherwise.

Hoping that my action in both respects may meet the approval of the Department.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 547.]

Mr. Burke to Mr. Pendleton.

UNITED STATES CONSULATE,
Hamburg, October 11, 1887.

SIR: By direction of Consul Lang and on behalf of one Hans Jacobsen, I have the honor to transmit to you herewith two letters which explain themselves, and a "military case" form signed by Hans Jacobsen. There is no doubt of his being an American citizen, as our record book shows that on August 24 he presented a passport at this consulate, which was issued at Washington, and received from us a certificate that he had presented the same. As will be seen from the above letters, your intervention in his behalf is earnestly requested.

I have, etc.,

CHAS. H. BURKE.

[Inclosure 2 in No. 547.]

MILITARY CASE.

Name, Hans Jacobsen; place of birth, Sonanby-Schleswig; date of birth, August 8, 1858; date of emigration to United States, October, 1878; name of ship and date of sailing, a ship from Denmark; date of arrival in the United States, end of October or beginning of November; date of declaration of intention, 16th of December, 1880; date of naturalization, do not remember, April or May, 1887; date of return to Germany, 22d or 23d of August, 1887; name of ship, *Rugia;* date of ship's arrival, 22d or 23d August, 1887; purpose of return to Germany, ———; date of intended return to America, in the spring, 1888; date of military judgment, ———; cause of military judgment, ———; name of court rendering judgment, ———; amount of fine, ———; date of payment, or ——— cause of non-payment, ———; date of imprisonment, August 30, 1887; when ordered to leave, ———; date of impressment, ———. Annex copies of all papers served on you in connection herewith, ———.

I, the undersigned, a naturalized citizen of the United States of America, solemnly assert the above statement to be true.

HANS JACOBSEN.

FLENSBURG, *October* 10, 1887.

[Inclosure 3 in No. 547.—Translation.]

Mr. Lassen to Mr. Lang.

LYSABBEL PR. SCHAUBY AUF ALSEN, *September* 29, 1887.

The undersigned respectfully begs to place the following request before the esteemed consulate, at the solicitation of the house-owner, Andreas Jacobsen, of Lysabbelholz:

Hans Jacobsen, a son of the above-mentioned Andreas Jacobsen, emigrated from here to the United States about nine years ago, after having been enlisted as a soldier, and without asking for leave. He has remained uninterruptedly in the United States until August 25, 1887, when he returned as an American citizen. The day previous (August 24) he produced his passport (citizen papers) at the esteemed consulate. Soon after his returning home, on August 31, was, by direction of the military authorities, arrested and transported to prison in Flensburg. He is still there, and the probabilities are that the court-martial will punish him for his above-mentioned emigration. It is possible that he has already been sentenced.

Such a measure on the part of the military authorities, however, can not agree with the treaty of February 22, 1868, between the United States and Prussia regarding the citizenship of such persons who have emigrated from here to the United States, nor with the instructions pertaining thereto of the minister of justice of July 5, 1868.

According to these decrees the said Hans Jacobsen can certainly not now be punished on account of his emigration.

In the name of the said Andreas Jacobsen, father of the American citizen, Hans Jacobsen, I would most respectfully request the esteemed consulate to intervene in the behalf of Hans Jacobsen with the proper authorities and see that his rights are protected, and, if possible, his liberation effected.

Your most obedient,

H. LASSEN,
Hofbesitzer und Landtagsabgeordneter.

[Inclosure 4 in No. 547.—Translation.]

Mr. Johannsen to Mr. Lang.

FLENSBURG, *October* 10, 1887.

In consequence of your esteemed communication of the 4th instant, addressed to my colleague, Mr. H. Lassen, deputy of the Prussian legislature, residing at Lysabbel, the latter has instructed me to send to you the inclosed form, filled in as well as it can be at present, and to request you at the same time to hasten to the succor of the American citizen, Hans Jacobsen.

Judgment has not yet been passed, and hence various questions contained in the form could not be answered. Hans Jacobsen is confined in the military-arrest establishment of this place.

I avail myself of this occasion to assure you of the very high regard with which I subscribe myself,

Yours, very respectfully,

GUSTAV JOHANNSEN,
Deputy to the Reichstag.

[Inclosure 5 in No. 547.]

Mr. Coleman to Mr. Lang.

No. 2483.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, October 12, 1887.

SIR: The letter of October 11, written by Mr. Burke by your direction, and relating to the case of Hans Jacobsen, has been received.

Replying to the same, I am instructed by the minister to request you to cause Jacobsen to be informed, through such channels as you shall find available and convenient, that if he be a deserter, duly recruited for the German army before his emigration, his naturalization and the treaties regulating nationality, concluded between the United States and the German States in 1868, will not protect him from punishment for that offense on his return to his native country. If it were a case of emigration merely, and not one of desertion, it would be different. You will perceive, from article 2 of the inclosed treaty, that he remains liable to punishment on his return here for an action punishable by the laws of this country committed before his emigration.

The letter of Deputy Lassen, which you inclose, states distinctly that Jacobsen had been "zum Soldaten ausgehoben." If it should, nevertheless, be ascertained that he was not recruited before his emigration, the legation will be glad to be informed of the fact, and will take such steps in his behalf as the circumstances of the case shall warrant.

By direction of the minister.

I remain. etc.,

C. COLEMAN.

[Inclosure 6 in No. 547.]

Mr. Lang to Mr. Pendleton.

UNITED STATES CONSULATE,
Hamburg, October 20, 1887.

SIR: Herewith I have the honor of sending you a copy of a letter received from one H. Lassen, who has conducted the correspondence with this consulate on behalf of Hans Jacobsen.

It will be seen from this letter that Hans Jacobsen had undergone a preliminary examination as a recruit in the army of the Imperial Government, and was accepted and ordered to report for duty anterior to his departure for America.

I am, sir,

WM. W. LANG.

[Inclosure 7 in No. 547.—Translation.]

Mr. Lassen to Mr. Lang.

LYSABBEL, *October* 18, 1887.

Having received the esteemed communication of the 15th instant of the highly honored consulate, I have to state in a preliminary way that the said Hans Jacobsen emigrated to America on the 21st of October, 1878, after he had been recruited for military service. Pursuant to an order received by him before his departure he was, however, not to enter upon service until the 5th of November following.

Upon the question, whether, under these circumstances, before his emigration he could be regarded as having been placed in the military service, I will not pass judgment, but in my opinion this is not the case.

The facts are in reality as stated. I shall, however, in so far as it may be possible, also cause Hans Jacobsen himself to answer the questions which have been submitted.

With high respect,

H. LASSEN.

No. 435.

Mr. Bayard to Mr. Pendleton.

No. 274.] DEPARTMENT OF STATE,
Washington, December 20, 1887.

SIR: Your dispatch No. 547, of the 3d instant, relative to the case of Hans Jacobsen, arrested and confined for desertion from military service prior to emigration, has been received and considered.

In view of the apparently conclusive evidence furnished to the Department by you that Hans Jacobsen, when he came to America at the age of twenty years, deserted from the German army, and is now, after trial and conviction therefor, under sentence for such desertion, the Department approves your course in not presenting the case to the German Government, without instructions to do so. The second article of the naturalization treaty of 1868 expressly provides that a naturalized citizen of the one party, on his return to the country of his origin, remains liable to trial and punishment for offenses committed against its laws prior to his emigration, saving always the limitations established by the laws of his original country.

As now before the Department, the complaint of Jacobsen seems clearly to be based on a penal prosecution expressly permitted by the treaty.

I am, etc.,

T. F. BAYARD.

No. 436.

Mr. Pendleton to Mr. Bayard.

No. 555.] LEGATION OF THE UNITED STATES,
Berlin, December 26, 1887. (Received January 10, 1888.)

SIR: I have the honor to inclose for your information copies of a correspondence relating to Mr. Manny Ehrenbacher's application for a passport, which recently took place between this legation and our consul at Nuremberg.

You will perceive that I offered to issue the desired passport upon

the condition that Ehrenbacher should at once return to the United States to perform the duties of citizenship there, and that he withdrew his application, expressing the intention of going shortly to America and applying for a passport there.

You will observe from the inclosures that Mr. Bancroft Davis declined to issue a passport to the father, and that the son has been ever since that time in Germany under his control.

Hoping you will approve my course in this case,

I have, etc.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 555.]

Mr. Black to Mr. Pendleton.

UNITED STATES CONSULATE,
Nuremberg, December 10, 1887.

SIR: Inclosed please find passport application of Manny Ehrenbacher, together with his birth certificate and the citizen paper of his father. You will notice that the name in the birth certificate is spelled "Mannie," but he spells it in the application "Manny;" he explains that difference by saying that the former was the way it was spelled by his family at the time of his birth, but he has himself changed it to the present spelling. Jacob Ehrenbacher, the father of Manny Ehrenbacher, applied through this office in March, 1875, to the legation at Berlin, for a passport, but the then minister, the Hon. J. C. Bancroft Davis, in a letter dated April 2, 1875, refused it upon the grounds that Ehrenbacher had lived here since July, 1869, with his family, and he was engaged in business, and there was no apparent intention of his returning to the United States. The matter was then submitted to the Department of State at Washington, and the course pursued by the minister was sustained in a communication dated June 2, 1875, addressed to Mr. Ehrenbacher, a copy of which is on file in this office.

I am, etc.,

WM. J. BLACK.

[Inclosure 2 in No. 555.]

Mr. Coleman to Mr. Black.

No. 2620.] LEGATION OF THE UNITED STATES,
Berlin, December 13, 1887.

SIR: Your letter of the 10th instant, transmitting the passport application of Mr. Manny Ehrenbacher, is received.

Mr. Jacob Ehrenbacher, the father of the applicant, returned after naturalization in the United States to his native country, Germany, in 1869, with the latter and with his entire family.

In 1875 Mr. Bancroft Davis, at that time the American minister at this post, declined to issue a passport to the father for the reason that he could not be regarded as having an intent to return to the United States within the meaning of the treaty, which decision was subsequently approved by the Department of State.

Since then a further period of twelve years has elapsed, making in all one of about eighteen years, during which the father has resided in Germany with his family, his son, the present applicant for a passport, included, without either father or son having at any time been in the United States since the return of the father and his family in 1869.

In view of these facts and of the circumstances that Mr. Manny Ehrenbacher, who has spent about eighteen of the twenty-one years of his life in Germany, manifests no intent to return to the United States and to elect to become a citizen of the United States by taking up his residence there, and performing the duties of citizenship, the legation feels constrained to decline to issue the passport for which he has applied, except on the condition that he at once return to the United States for the purpose aforesaid, and to enable him to do so.

Mr. Ehrenbacher's birth certificate, his father's certificate of naturalization, and the passport application forms are herewith returned, the latter to be transmitted here

again, properly amended, in case a passport is desired upon the above stated condition.

Be so good as to acquaint Mr. Ehrenbacher with the contents of this communication.

By direction of the minister.

I remain, etc.,

CHAPMAN COLEMAN.

[Inclosure 3 in No. 555.]

Mr. Black to Mr. Pendleton.

UNITED STATES CONSULATE,
Nuremberg, December 15, 1887.

SIR: In reply to your communication of the 13th instant, I have the honor to inform you that I notified Manny Ehrenbacher that the legation declines to issue the passport to him, except on the condition that he at once returns to the United States and performs there the duties of citizenship. His father has notified me to-day that his son withdraws his application for passport, and as he intends going to the United States shortly he will make application for one there.

Manny Ehrenbacher told me, when he first made his application, that he was going to travel for a wine house in Frankfort-on-the-Main, and that he expects to travel for that house in the United States for four months. If he does, therefore, apply for a passport in the United States, it will be merely to overcome the objections made to issuing him one here, and I am fully satisfied that he has no *bona fide* intention of ever permanently residing in the United States and performing the duties of citizenship there.

I am, etc.,

WM. J. BLACK.

No. 437.

Mr. Pendleton to Mr. Bayard.

No. 566.] LEGATION OF THE UNITED STATES,
Berlin, January 10, 1888. (Received January 31.)

SIR: I have the honor to inclose herewith, with translation, a narrative published in the Kreuzzeitung, a leading conservative newspaper of this city, of the election of Tamasese as king of the Samoan Islands, and of other events occurring there in the months of August and September last. The narrative of these events is from the pen of a marine chaplain on board the German war vessel *Sophie*.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure in No. 566.—Translation.]

THE ROYAL FESTIVAL AT LEÜLUMOËNGA, SAMOAN ISLANDS.

[By the Marine Chaplain Wangemann, on board Her Majesty's ship *Sophie*.]

Leülumoënga is the principal village of Aana, the western province of the island of Upolu. This is the second in size, by far the most cultivated of the three principal islands of the Samoan group, and has an area of 16 square miles (German).

Westward of Upolu lies Savaii, with an area of 31 square miles, but almost without a harbor; to the eastward, Tutuila, only 2 or 3 square miles in size, but distinguished by its excellent harbor Pango-Pango

King Tamasese lived in the village of Leïlumoënga, until August 23, 1887. Descended from the oldest and most distinguished Samoan family, he and his family have during decades stood in opposition to the family of Malietoa, who, by the ex-

pulsion of the Tongans from Upolu in the second decade of this century, achieved under his leadership, had placed most of the districts of the Archipelago under his rule. When, on the 24th of August last, Commodore Heusner, commanding the German squadron, had, in the name of His Majesty the German Emperor, declared war against the reigning King Malietoa, a descendant of the one first named, because Malietoa, as was announced in the declaration of the commodore, had been guilty of insulting the German Emperor; had further, by disregard of the treaties concluded with the German Government, and by refusing protection to the Germans living in Samoa, manifested the purpose of not observing those treaties; and finally because he had refused to furnish the guaranties considered necessary by the German Government for the protection of the lives and property of the Germans living in Samoa, His Majesty's corvette *Carola* had been dispatched from Apia, the principal port of Upolu and the chief place of the entire Samoan group, to Leülumoënga, situated to the westward at a distance of six hours, to inform the rival king, Tamasese, that the German Government recognized and would support his claims to the royal sovereignty over all Samoa, summoning him to embark, in consequence, for Apia on board His Majesty's ship *Carola*.

On the morning of the 25th of August following, the *Carola* steamed into the harbor of Apia flying Tamasese's flag at the mast-head. The field of the same is divided by a cross into four equal parts, of which three are white, the left upper one being red. In the middle of the red field is the white five-pointed star of Samoa, intended to represent the five more important islands of the group—Savaii, Manono, Upolu, Tutuila, and Tau. Seen at a distance, this flag can hardly be distinguished from the German war flag. H. M. frigate *Bismarck* saluted the new flag of Samoa with the customary twenty-one guns. Tamasese at once paid his visit to the commodore on board H. M. S. *Bismarck*, and later, at about noon, went ashore with the latter to repair to his new capital, at Mulinuu, which lies on the western side of the harbor of Apia, on a low, narrow tongue of land extending from the south to the north, where the King has since lived in his Samoan hut, under palm and bread-fruit trees, after the manner of his fathers.

Tamasese is a tall, imposing-looking personage. His hair and short mustache have already turned gray. The upper part of his light-brown body and his feet are always uncovered; about his loins he wears, wrapped around him several times, according to the Samoan custom, a large piece of cloth—siapo—of a brown-and-black pattern, which the Samoan women know how to manufacture out of the bark of the paper-mulberry tree. In addition to the garland of flowers customary in the country, his neck and breast are adorned by a silver chain with the five-pointed star of Samoa. He carries in his hand an immense black umbrella, whether there be rain or sunshine. He sits in his hut, as is the custom at Samoa, with his legs crossed beneath him, holding a fly-brush in his hand, which he swings to and fro, especially when speaking. The umbrella and chain are of European manufacture; the fly-brush, made of cocoa fibers, is Samoan work.

On the day before the arrival of Tamasese hostilities had been inaugurated by an armed landing. Our sailors, however, met with no resistance. The Samoan Government building, a shed-like structure of wood, was arranged as the chief guard-house, and a second guard was placed in the German vice-consulate, at the time unoccupied. Malietoa had, however, with some of his adherents, fled into the interior of the island, his other adherents remaining quietly in their huts. This state of war, proclaimed over Samoa, lasted for several weeks still, until finally, on September 17, Malietoa decided to quit his hiding-place in the brush and surrender to the German power. No fighting whatever ensued. Malietoa, with his few followers, had several times been driven out of his hiding-place by small detachments of sailors sent in pursuit of him, but had never allowed himself to be captured, the interior of Upolu being so impassable, so full of ravines, masses of lava, and intertwined roots, and covered with so dense a forest, that hardly the few roads connecting the northern with the southern coast, leaving the jungle out of consideration, are available for white men.

The former King had already, on September 18, sailed on the cruiser *Adler* for his place of banishment, after having manifested the magnitude of his grief to his people in touching letters, which have been published in the Australian journals. The adherents of Malietoa in other parts of the country had, by repeated visits by our war vessels, been made acquainted with the situation of affairs. H. M. S. *Carola* visited several of the ports of Upolu, and in particular Safata, situated on the southern coast, a chief stronghold of the opposing party; Her Majesty's corvette *Olga* went to Tutuila, and finally Her Majesty's corvette *Sophie* touched at all of the larger places of Savaii, sending regularly a deputation of two chiefs of the Tamasese party, who were on board, under the conduct of Lieutenant Kalau von Hofe, ashore, who, by printed proclamation and speeches, summoned their country people to submit to Tamasese's rule. At the beginning several places maintained a very cool attitude toward these visits, Satupaitea, on the southern coast, going so far as to refuse

to receive the chiefs. But when this village had been destroyed by fire for its disobedience, its inhabitants had fled precipitately to the bush before the landing of the armed boats; all who had at first exhibited coolness, upon a second visit of the *Sophie* hastened to manifest their entire loyalty.

Tamasese was now the sole ruler of all Samoa, for on the occasion of the assemblage of the people, held at Mulinuu on September 15, the chiefs of all the places of the archipelago had appeared, and had, although in many a case with a trembling hand, subscribed the document in which they recognized Tamasese as the sole and rightful King of Samoa. This document read, translated into German: "We make known to all the people of all Samoa the following: 'The Government of Samoa has been assumed by His Majesty King Tamasese. It has been ordered by His Majesty the King that an assemblage of all the representatives of the people take place to-day, and that every one yield implicit obedience to this order. We have subscribed our names thereto.'" Two hundred and seventy-seven names, arranged according to provinces and districts, follow.

In order to give evidence of his power to all the people, Tamasese had ordered his armed forces to Mulinuu for the afternoon of this important day. The adherents from Aana came from the west, those from Atua, the eastern province of Upolu, from the east, the latter in sixty large canoes, to the number of two thousand warriors under the conduct of the chief Tafua. It was an interesting spectacle as this stately fleet came around Matautu, the eastern point of the harbor of Apia, passing through the same in beautiful order, with uniform strokes of the oars, and singing in unison. The well-built brown figures in the boats had hung garlands of leaves and flowers about themselves, and had wound broad fire-red ribbons, in token of their being Tamasese's warriors, about their black hair. The other items of their uniforms consisted of the customary lavalava (the waist-cloth), of a Snider rifle, and a large leather cartridge-box. It is said of these people, by the way, that they know how to use their rifles well, although they have been instructed in their use but a short time as yet. Their organization has been effected by the former artillery captain of Baden, Herr Brandeis, who, as long ago as January, 1887, was appointed by King Tamasese president of the state council, "o le alii fili o le vasenga o le tupu," as the title reads in Samoan, and had in that capacity exercised the widest influence in the Kingdom of Samoa. Herr Brandeis also conducted the proceeding of the people's assemblage on this day.

It was Tamasese's purpose to inaugurate his new rule by a grand festival. To this end he commanded his subjects to send large deputations from their villages to Leülumoënga, and to have them make their appearance handsomely adorned. At the same time he also requested Commodore Heusner and Captains Kuhn, Strauch, Cochins, and Aschman, as well as the corps of officers of the crüising squadron, to attend the festival as guests of honor. A festival of such dimensions could, however, not be held at Mulinuu. The tongue of land but four weeks before had been uninhabited, Malietoa then living at Afenga, a village situated three hours west of Apia. When Tamasese moved into the old royal hut, his followers built themselves huts in the neighborhood in order that they might at least find some shelter from the rain and sun, but this settlement did not as yet suffice for the accommodation of thousands of guests. Moreover there grow at Mulinuu only a few cocoa and banana palms; and there is no spring water, thus the journey to Leülumoënga became the business of the whole archipelago. In Samoa, the natives travel long distances almost solely in canoes, Europeans sometimes on horseback; on foot, people travel rarely, the roads being too bad, the streams that have to be waded too numerous and swift and deep, the heights and declivities too difficult to ascend. Traveling in boats, however, presents but little difficulty, owing to the regularity of the winds and the security of the water within the coral reefs which surround these islands as with wide rings.

No. 438.

Mr. Bayard to Mr. Pendleton.

No. 279.] DEPARTMENT OF STATE,
Washington, January 11, 1888.

SIR: Your dispatch No. 555, of the 26th ultimo, relative to the application of Mr. Manny Ehrenbacker for a passport, has been received. It appears from the inclosures of your dispatch that in 1875 Mr. Bancroft Davis refused to issue a passport to the father, for the reason that he

could not be regarded as having an intention to return to the United States within the meaning of the treaty, and that the son has been in Germany ever since that time, under the control of his father.

Under the circumstances of this case it seems decidedly better that it should be passed upon in the United States, in case he shall come here.

I am, etc.,

T. F. BAYARD.

No. 439.

Mr. Bayard to Mr. Pendleton.

No. 280.] DEPARTMENT OF STATE,
Washington, January 17, 1888.

SIR: On the 9th ultimo Baron von Zedtwitz, German chargé d'affaires at this capital, called at the Department of State and read to me a translation of an instruction to him, dated November 18, 1887, from Prince Bismarck, a copy of which is herewith inclosed.*

This communication of Prince Bismarck, after stating that it had been necessary on a former occasion to draw my attention to the anti-German attitude assumed by the American consul-general at Apia, Mr. Sewall, during the recent German hostilities against King Malietoa, complains of similar experience with the predecessors of Mr. Sewall on all occasions when Germany has endeavored, in view of the unsettled state of affairs in Samoa, to obtain better guaranties for the protection of the German subjects there living, and of their commercial interests; declaring, also, that the reports of the German representatives in Apia during the last seven years repeatedly contain the complaint that their American consular colleagues show a tendency to interfere in the relations between Germany and the Samoan government, and to infuse into the latter distrust of Germany, whose efforts in the interest of the establishment of a lawful and orderly condition of affairs in those islands have, without exception, he insists, met with the opposition of the American consular representatives. As an instance of this alleged opposition, the communication of Prince Bismarck states that when, in 1881, upon the outbreak of armed strife among the natives, the commander of His Imperial Majesty's ship *Möwe*, on the request of the German consul at Apia, and in agreement with the municipal administration, occupied Apia in order to protect the foreign settlement, the then American consul, Mr. Dawson, protested against that measure and caused the editor of an Apia paper to publish injurious articles against the German vice-consul and the commander of the *Möwe*.

As another instance it is stated that Consul Canisius has been pointed out as the author of two letters which Malietoa addressed to His Majesty the Emperor of Germany on the Imperial representative in Apia, and demanding his recall, with an insulting criticism of German military measures. Another instance cited is the action of Mr. Greenebaum, who, it is said, besides acting in opposition to the German representative, and encouraging Malietoa in his provoking attitude towards Germany, arbitrarily announced, in a proclamation issued on May 14, 1886, an American protectorate over the Samoan Islands, and hoisted as a sign thereof the American flag over the Samoan; a proceeding

* For this inclosure see *post* No. 479, p. 662.

which, as the communication states, was disavowed by this Government, and resulted in Mr. Greenebaum's recall. Prince Bismarck observes that it is remarkable that on the remote islands in question, where neither America nor Germany has any political interests to defend, the latter should be exposed to the continual ill-will of a series of American representatives, there being, to explain the fact, no local commercial rivalries, such as exist in many quarters of the globe, and even in proximity to the region of the present difficulties between Germany and Great Britain. He then proceeds to show the preponderance of German over American commercial interests in the islands, notwithstanding which, it is said, Germany has always maintained the principle of equality of rights of nations in Samoa and aspired to no political advantage. Germany, it is said, has never made use of her mercantile preponderance in Samoa to secure commercial privileges as the United States have recently done in Hawaii by the ratification of the recently renewed reciprocity treaty of January 30, 1875. And on the occasion of the recent action against Malietoa, the continuance of whose Government was incompatible with the dignity of Germany, she gave, Prince Bismarck further claims, to both the English and American Governments, before his deposition, the assurance that it was not her intention to change anything with regard to the relation of the treaty powers to Samoa.

Failing to find any reason "*in the facts themselves*" to explain the continued ill-will shown towards Germany in Samoa by the American representatives in the past and present, Prince Bismarck says he would be thankful if I would lend him my assistance in the investigation of this strange fact, and should his supposition be right that the difficulties referred to have their origin in the personal disposition of the American representatives in Apia, and not in their instructions, he is convinced the American Government will cause the necessary redress to take place, as it can not be conceived that consular officers, who do not respect the limits of their task, and who, by their conduct, and without reason, cause ill-feeling between countries entertaining friendly relations to each other, act in accordance with the wishes of the Government of the United States, with which Germany, since the foundation of the American Union, has been connected by traditional friendship.

I am instructed by the President to say that he fully participates in the regrets of Prince Bismarck that the relations of traditional friendship which have subsisted between the United States and Germany unbroken for so many years should be, in any way or degree, disturbed or affected by occurrences in remote islands in which the material interests of both Governments are comparatively insignificant.

This Government has manifested in the most unmistakable manner its desire to avoid all possibilities of difference with the other treaty powers in Samoa, alike by its action in respect to its consular representation there, and by the exercise of its moral influence to discountenance and prevent those native dissensions which, assuming the form of disaffection towards existing government, have stood as a constant invitation and incentive (of which interested foreigners in the islands have not been slow to avail themselves) to intrigue with native factions to obtain commercial and political supremacy. This policy it has pursued with consistency and good faith, actuated not so much by the idea of any present or probable future commercial interest in that quarter of the globe in which the islands in question lie, as by a benevolent desire to promote the development and secure the independence of one of the

few remaining independent territories and autonomous native governments in the Pacific Ocean.

Had the Government of the United States entertained any designs of territorial aggrandizement or of political control in Samoa, they could have been accomplished, it is believed, with much satisfaction to a majority of the natives, and with little opposition from any of them, long prior to the date of either the British or the German treaty. But another and widely different policy has guided the action of the United States in respect to the native communities in the Southern Pacific, and it is not, I apprehend, claiming too much credit for this Government to express the opinion that the example it exhibited of treating with Samoa as an independent state led to a similar course and a similar acknowledgment of native independence in that island group by Germany and Great Britain.

Since that time a regard for the subsequently acquired conventional rights of Germany and Great Britain has been an additional reason for continuing the policy of this Government of respect for native independence. The disinterested position of the United States is strongly emphasized by the promptitude with which the action of Mr. Greenebaum was disavowed by this Government, when he proclaimed an American protectorate over Samoa, in order to counteract the disintegrating and destructive effect upon the then native government, not only of prior acts of the German consul, Dr. Stuebel, which had been protested against by the British consul as well as by Mr. Greenebaum, and some of which, at least, I understood, were not sustained by the Imperial Government, but also of the active and substantial support given by German subjects there resident to those in arms against the government of Malietoa. Without waiting for representation or remonstrance, I at once caused both Germany and Great Britain to be informed of this Government's entire disapproval of Mr. Greenebaum's action, as being unauthorized and at variance with his instructions, and he was soon after recalled.

This Department has never been furnished with evidence as to the reported authorship of the two letters of Malietoa to the Emperor of Germany of the 18th and 28th of May, 1885, nor as to the alleged origin of certain articles in Samoan newspapers, which I have never seen; but in respect to the alleged action of the American consul, Mr. Dawson, in 1881, on the occasion of the landing of a force from His Imperial Majesty's ship *Möwe*, the documents in the possession of this Department lead to a very different impression of that incident from that which Prince Bismarck has been led to entertain. Not only was the action of the German consul on that occasion, as I am informed, not in agreement with the Samoan Government and the municipal administration, but it was taken without consultation with the acting head of the municipal government, after the disturbance had actually been quelled by the local police, and was complained against by the Samoan King, a copy of whose complaint, dated July 14, 1881, and addressed to Mr. Dawson, as the acting head of the consular and municipal body, is herewith inclosed. But, whatever may be the precise circumstances of the affair, it appears at most merely to involve a personal difference of opinion as to the measures required by an unforseen but brief commotion, and to have had no connection whatever with subsequent disorders in the islands.

While it is doubtless true that the German and American consuls at Apia have not always been found acting in concert, yet unless the information derived from various sources and in the possession of this

Department is wholly unreliable, the absence of harmony in consular action has not in any respect been due to hostility to Germany on the part of the consuls of the United States. This fact is strongly illustrated by recalling certain incidents which preceded the landing of the forces from the *Möwe*, when it is alleged the American consul exhibited an attitude of hostility to Germany.

When Sir Arthur Gordon, in August, 1879, came to negotiate the treaty between Great Britain and Samoa, which was concluded on the 28th of that month, and consulted the foreign consuls and captains of men-of-war then present upon the point whether he ought to treat with Malietoa as King of Samoa, they unanimously advised him to do so, which he did; and among the foreign representatives who concurred in that advice was Mr. Theo. Weber, then German consul at Apia, but now the leading representative of German commercial and landed interests there, and, as such, long an active promoter of the native opposition under Tamasese to the government of Malietoa. On the following day the German and American consuls joined with Sir Arthur Gordon in proclaiming the government of Malietoa as the only real government in the islands. At the same time the municipality convention was entered into by the American, British, and German consuls with Malietoa as representing the Government of Samoa. The consular representative of the United States then consistently supported the government of Malietoa, and it is understood that the German consul was under instructions from his Government to pursue the same course. And yet, in November, 1880, the American consul, Mr. Dawson, advised the Department that the then German consul-general, Captain Zempsch (of whose overbearing and inconsiderate conduct towards himself personally he frequently complained), was openly advocating a division of the kingdom, and thus contributing to weaken the native government of Malietoa, to whom personally, so far as this Department is advised, the Government of Germany made at that time no objection. About this time the native opposition to the government of Malietoa had begun to assume a warlike attitude, which the expressed views of the German consul-general encouraged.

Judging by the past I am led to conclude that the instability of the native Government of Samoa, and the tendency exhibited in a marked degree during the past two years towards civil commotions there, can not be justly imputed to any action on the part of the consular representative of the United States, but is to be attributed, among other important causes, to the failure of the German consular representatives to give consistent support to existing native government. This, I am led to suppose, has not been owing to hostility to the United States on the part of the German representatives, but rather to a natural susceptibility on their part to the desire of the local German element for such a native government as would be disposed to advance its commercial and landed interests. On no other hypothesis am I able to account for the support given, especially during the past two years, to the natives in rebellion against the existing government; for, whatever may have been the grounds of complaint on the part of Germany against Malietoa personally, the support of Tamasese, or of any other opposing chief, could certainly form no part of a plan of redress against Malietoa.

Another important cause of native unrest and dissension in Samoa has been the agitation in certain neighboring British colonies, and especially in New Zealand, for the annexation of the islands to Great Britain.

Moreover, I am wholly unable to share in Prince Bismarck's impres-

sion that the efforts of Germany to establish a lawful and orderly condition of affairs in Samoa have generally, not to say without exception, met with the opposition of American consular representatives.

I could readily point to many instances of co-operation of American consular representatives with those of Germany, when the efforts of the representatives of the latter were directed simply to the maintenance of peace and order. As an instance of such co-operation reference may be made to the important incident of the treaty of peace signed in December, 1879, on board of His Imperial German Majesty's ship *Bismarck*, between contending native parties, in which the co-operation of the consular representatives of the United States and Great Britain with Captain Deinhardt, the German commander, is expressly recited. Again, as late as the 8th of June, 1886, we find the consuls of the United States, Germany, and Great Britain witnessing an agreement of peace between the "representatives of Malietoa and his Government," and the "representatives of Tamasese and his party." And in the intervening seven years, during which Prince Bismarck has found a few incidents which seem to him to contain evidence of enmity on the part of the consular representatives of the United States toward Germany, there were frequent acts of co-operation of those representatives with the consular representatives of Germany and Great Britain, with a view to the maintenance of a lawful and orderly condition of affairs under an autonomous native government.

Should the opinion which has been expressed as to the part taken by the United States in seeking to preserve the independence of the Samoan Islands seem in any degree extravagant, it will no longer appear to be so when what has taken place in the last three years in regard to other island groups in the Pacific is considered.

Prior to that period Spain was holding the Ladrone or Marianne and the Phillipine Islands, and had also laid the basis of a claim of title to the Caroline Islands, although she did not maintain an active government there.

Between the years 1842 and 1847 France established a protectorate over the Marquesas, Society, and Paumota groups, and in 1853 occupied New Caledonia. In 1864 she formerly assumed control of the Loyalty Islands, and in 1880 added Tahiti to the list of her colonies in the Pacific.

In addition to the continent of Australia, to which Great Britain holds a comparatively ancient title, that Government had also acquired the Fiji Islands and New Zealand, the sovereignty of the latter being ceded in 1840 and that of the former on the 10th of October, 1874.

Germany had not then entered upon her present active policy of colonization in the Pacific, although her subjects had carried on a considerable commerce there, and had established places of trade on various islands, including the Samoan.

Such was the condition of affairs at the beginning of the present decade, nor was there observable at that time any marked evidence of the desire for new territorial acquisitions; but, beginning in 1884, numerous island groups have, in rapid succession, passed in whole or in part under the control of various European powers, until almost the last vestige of native autonomy in the islands of the Pacific has been obliterated.

The year 1884 witnessed the occupation by Germany of the northern side of New Guinea, from Cape King William to Astrolabe Bay, the Imperial flag being hoisted at twelve different points. Almost coincidently Great Britain occupied the south coast of the island, and in the

months of November and December, in the same year, seized and occupied the Louisiade group, Woodlark Island, and Long and Rook Islands.

In the following year arose the dispute between Germany and Spain over the Carolines, which was terminated by the protocol signed at Rome on the 17th of December, 1885, under which Germany acknowledged the sovereignty of Spain over these islands and the Pelew group; and they have now passed finally under Spanish control.

But these events were merely the precursors of others, of which the seizure by France in 1886 of the New Hebrides was not the most significant. On the 6th of April of that year a joint declaration was made by Germany and Great Britain, which contemplated the absorption by those two powers of almost all the independent territory in that part of the Pacific Ocean called the West Pacific, lying between the the 15th degree of north and the 30th degree of south latitude, and between the 165th degree of longitude west and the 130th degree of longitude east of Greenwich, which had not already been occupied by some foreign power. Through that part of the Pacific included in those bounds of latitude and longitude a line of division was drawn to mark the respective spheres of British and German influence and annexation; and each joint declarant agreed not to make any acquisitions of territory, nor to establish protectorates, nor to oppose the operations of the other in the sphere of action respectively assigned to it.

Under this declaration and agreement, from which Samoa, Tonga, and Niné Island were excepted, and by the line of division drawn as above stated, New Ireland, New Britain, and the adjacent western half of the Solomon group passed under the dominion of Germany, and certain islands west of the line to Great Britain.

On the 1st of August, in the same year, the latter Government took possession of the Kermadec Islands, and by the imperial decree of the 13th of the ensuing month the Marshall, Brown, and Providence Islands and groups were occupied by Germany.

As the result of what has been above detailed, of the vast aggregate of territory in the Pacific Ocean, but a few island groups, containing a few thousand square miles, remain to-day as independent and autonomous.

Long anterior the United States had acquired, by discovery and occupation, the uninhabited island, or ocean reef, of Midway, as a possible coaling station.

In view of these facts, it is unnecessary to emphasize the importance attached by this Government to the maintenance of the rights to which the United States has become entitled in any of the few remaining regions now under independent and autonomous native governments in the Pacific Ocean.

Prince Bismarck has referred to this Government's treaty with Hawaii of the 30th of January, 1875, which has lately been renewed, and which is said by him to give the United States commercial advantages in those islands superior to those possessed by any other foreign power. In respect to this it needs only to be observed that that treaty was one of special reciprocity which both the contracting parties were alone competent to make, and that the United States has at no time, since the convention was concluded, sought to use it to control the native government of the islands or to regulate their internal affairs against the wishes of the inhabitants, although the geographical and historical relations of the group to the United States necessarily give this Govern-

ment an interest in the future of the islands such as no other foreign Government can possible possess.

In Samoa, on the contrary, the action of the German representatives, especially during the last three years, has been such as to raise grave doubts in regard to the future relations of the treaty powers respecting the islands, and these doubts have only been relieved by expected assurances from Berlin of the absence of any intention on the part of Germany to unsettle former understandings, and take control of the native Government and assume a protectorate. As an example of this may be cited the signing on the 10th of November, 1884, by Dr. Stuebel, then German consul-general at Apia, with Mr. Theo. Weber, whose connections in the islands have been above described, as witness, and by Malietoa as King of Samoa, of a treaty under which substantially the entire control of Samoan affairs was to be handed over to the Germans. It has never been maintained, so far as I am aware, that the Samoan King's signature of this treaty was a voluntary act. On the contrary, I am informed that it was executed by him under duress; that it was read to him only once by an interpreter; that the German consular representative refused to give him a copy for consideration; and that on the day following the signature of the instrument, Malietoa secretly renewed an urgent petition to the Government of Great Britain for annexation. Against this convention the British Government protested, and the Government of Germany has not insisted upon its execution.

In January, 1885, less than three months after the incident above narrated, Dr. Stuebel, under the form of reprisal for certain acts of the native Government, among which was its refusal to execute the instrument of the 10th of the preceding November, seized or attached the sovereign rights of the King in the municipality of Apia, and raised the German flag on Mulinuu point, the seat of the native Government. Coincidently, the flag of the native faction hostile to the then existing Government was displayed a few miles down the coast, and the Vice-King, Tamasese, left the Government of Malietoa to put himself at the head of the movement.

This action of the German consul was not sustained by his Government; but the causal connection of the act, and of the long-existing and active local influences by which it was doubtless inspired, with subsequent disorders in the islands, needs no argumentative exposition.

The earnest desire of the Government of the United States to perpetuate the native Government of the Samoan Islands and to place it on a secure basis is further evidenced, and its views upon the present situation may be more clearly understood by a review of its action subsequently to the proclamation by Mr. Greenebaum, United States consul, of a protectorate over the islands.

Immediately upon being informed of the consul's action, identical instructions were sent by telegraph, on the 1st of June, 1886, both to yourself and to our minister at London, to say to the Governments to which you were respectively accredited, that the claim of an American protectorate over Samoa by the United States consul there was wholly unauthorized and disapproved, no protectorate by any foreign nation being desired; and further, to suggest to those Governments to authorize their ministers at this capital to confer with me with a view to the establishment of order. Following this were certain practical suggestions which it is unnecessary here to enumerate, the last of which, however, was that a joint declaration should be made by the three powers against annexation or the assumption of a protectorate by any of them.

On the 2d of June Mr. Phelps, United States minister at London, telegraphed that Lord Rosebery had authorized him to say that he would assent to the proposed conference if Germany also would, his lordship promising at the same time to confer with the German ambassador on the subject; and on the following day Mr. Coleman, chargé d'affaires of the United States at Berlin, informed me by telegraph that my proposal had been received at Berlin *ad referendum*. On the 7th of the same month Mr. Coleman wrote me that in conversation with Count Berchem, he was informed that Prince Bismarck, with whom Count Berchem had been in correspondence respecting the suggestion made in my telegram of the 1st of June, had accepted those suggestions as tendered; and Count Berchem added that it could not be decided as yet when the proposed discussion at Washington could take place, as owing to the lack of telegraphic communication with Samoa some time must elapse before the German Government *could instruct its consul there to avoid further complications, and to preserve the status quo.* It would also, he said, be necessary to obtain full information as to the existing situation on those islands.

In the suggestion that time should be allowed to gather information, I at once concurred; and when, a few days later, a proposal was communicated to me by the German minister that agents or commissioners should be sent out by the three powers to Samoa to obtain information respecting the situation there, as a preliminary to the discussion to take place at Washington, I at once accepted the plan as being in the line of the suggestion originally made by this Government, that the then representatives of the three Governments at Apia should be replaced by persons having no connection with past events there, and be the more able consequently to view the situation impartially.

In pursuance of this understanding, and with no other impression on the part of this Government than that the three powers were perfectly in accord that the *status quo* should be maintained pending the execution of their common benevolent purpose of assisting the natives of Samoa to form and administer their Government, agents were respectively sent at once to the islands, and in due time made their reports, which were exchanged by the three treaty powers.

On the 25th of June last the first formal session of the conference was held in this city, the British and German ministers and myself being present as the representatives of our respective Governments.

Other sessions were held from time to time during the following month, and some points of agreement reached; but owing to my inability to concur in the German proposition, which was substantially assented to, though not in all respects explicitly supported, by the British minister, the conference was, on the 26th of July, adjourned by unanimous consent until the autumn, in order that the members might consult their respective Governments with a view to an agreement on some other scheme of co-operative action.

In substance, the German Government proposed to commit the actual control of the islands to a person to be appointed for a term of five years by the power having the preponderating commercial interests there, the appointment to be renewed on the same terms, and the other powers merely to have the concurrent privilege of approving or refusing to approve the nominee.

The plan proposed by me on behalf of this Government was to commit the administration of the laws to an executive council, to be composed of the Samoan King and vice-King and three foreigners, of whom one was to be designated by each of the treaty powers, but who were

to hold their commissions and receive their compensation from the native Government, so as to be independent of the control and influence of the powers designating them.

This proposal was based upon the recommendation of the British commissioner sent to investigate and report on the condition of the islands, a gentleman of long and extensive experience in Oceania, and seemed to me to meet the requirements of foreign assistance, and at the same time to be consistent with that equality of rights of the treaty powers which was the admitted basis of the conference. My opposition to the German plan, as I stated at the time it was presented, was not due in any degree to the fact that under it the appointment of the actual governor of the islands would be given to Germany. My objection to the plan was based upon the opinion, which was confirmed as the scheme was unfolded and discussed in the conference, that it was inherently defective and objectionable in that it involved the union of complete political control with commercial preponderance in the same hands, and, by supplanting instead of aiding the native government, tended to diminish rather than to develop the capacity of the native inhabitants of the islands for the management of their affairs.

This objection was not supported by the British representative, but in view of the desire so often previously expressed by Great Britain to uphold an actual native government in Samoa, I am utterly unable to account for her instructing her representative in the conference to advocate a plan which gave to the representative of a single foreign power much greater control over the native government than was contemplated by the German-Samoan treaty of the 10th of November, 1884, to which Great Britain so strenuously objected. In a note of the 16th of February, 1885, to the embassador of His Imperial Majesty the Emperor of Germany at London, Earl Granville, then Her Britannic Majesty's principal secretary of state for foreign affairs, referring to that convention, said:

> If, M. l'Ambassadeur, this agreement had been confined to the establishment of a court, and of the procedure to be observed in civil and criminal cases, and the punishment of offenses in which German subjects are connected, for which alone Article VII of the German treaty in 1879 provides, its provisions would not, in the opinion of Her Majesty's Government, have been open to criticism; but the creation of a state council, the appointment of a German officer of the Samoan Government, and the enrollment of a German police to protect the plantations of German subjects, appear to place Her Majesty's subjects at a disadvantage, and will prevent the Samoan Government from acting independently in matters which affect the whole community. The arrangement seems in fact to give to Germany alone much of the influence with which in 1880 it was proposed to invest an executive council, to be composed of one English, one German, and one United States member. To this arrangement Her Majesty's Government declined to accede on the ground that it involved too great an interference with the government of the island(s) to allow of its being assumed by the representatives of Great Britain, Germany, and the United States conjointly.
>
> It will not be possible for Her Majesty's Government to accept a position of less influence and consideration than is given to Germany by the agreement under discussion.

It is not necessary further to discuss the plans of settlement proposed in the conference, as I am informed that the German Government, while declining the plan proposed by me, does not insist upon its own, and I am therefore not without hope that a satisfactory solution may yet be found.

I have already stated that when the conference was suspended in July last until the autumn, it was done with the concurrence of all the members, and solely for the purpose of enabling the representatives of Germany and Great Britain to consult their respective Governments. No intimation was then given that the *status quo* would be changed, or

that any acts of hostility against the Samoan Government, or King Malietoa personally, were in contemplation.

With this understanding, which had not changed from the moment the proposal for a conference was made and accepted, at the suggestion of the British and German ministers, I renewed, on the very eve of the formal opening of the conference, the instructions already given theretofore to the consul of the United States at Apia to use his influence to prevent violence between the native factions. The text of these instructions, which were telegraphic, and bore date the 20th of June last, was as follows:

Treaty powers endeavoring to secure permanent native government for Samoa. Strongly advise natives to avoid resort to force, which would endanger Samoa's best interests.

That the Government of Her Britannic Majesty fully concurred in the importance of a careful maintenance of the *status quo*, and in the understanding that no step should be taken to change it, appears from the declaration of the British minister at the first session of the conference, when, in presenting the plan of his Government, he said that, in view of the native dissensions, a new election of King seemed to be "imperatively called for," and that Her Majesty's Government expressed "no opinion, favorably or adversely, to the election of Malietoa."

On the same subject the German minister said:

King Malietoa having notoriously violated his treaty obligations towards Germany, and having even among the natives comparatively but few partisans, while a completely organized counter-government has been formed under Tamasese, a new election of King will have to take place according to the customs of the country. This election is to be freely made by the chiefs and the people of Samoa.

It is unnecessary to cite other statements, equally pertinent, to show the apparently complete concurrence of view as to the peaceful and benevolent purpose of the conference.

It is not strange, therefore, that I was taken wholly by surprise when the German minister called at this Department on the 29th of August last, and left with me a memorandum stating that his Government proposed to independently protect its own interests and rights in Samoa and obtain the satisfaction and reparation deemed to be due to its national honor, and, in case Malietoa was either not willing or not powerful enough to give the necessary satisfaction for the past and sufficient guaranties for the future, to declare war against him and refuse to recognize his Government.

Coupled with this declaration was an assurance that the Imperial Government was far from intending to bring about any change in the political relations which the three powers represented there entertained to Samoa; that, on the contrary, it maintained unaltered the existing treaties and stipulations between Germany, Great Britain, and the United States with regard to Samoa, as well as the equality of the three treaty powers, and proposed to continue its endeavors to arrive at an understanding as to the reforms necessary to establish lasting peace in these islands.

On the 23d of September the German minister called again and left a memorandum stating that Germany had declared war "against Malietoa personally," and that as soon as she had obtained by his abdication due satisfaction the state of war would cease.

It is not my purpose to enter into an examination of the question how far hostilities of this type can be reconciled with settled principles of

international law, or with the independence and autonomy of the country against which such measures are aimed. But it may be stated, as a matter well known, that on the 23d of August last, in less than a month from the date of the adjournment of the conference till the autumn, and before any notification to this Government of such resolve on the part of Germany, the German consul at Apia demanded of Malietoa satisfaction in the form of an apology and indemnity, together with the punishment of alleged Samoan offenders, for certain injuries said to have been suffered by German subjects at the hands of Samoans on the evening of the 22d of March preceding, during the celebration by the former of the anniversary of the birth of His Majesty the Emperor of Germany, as well as a considerable pecuniary indemnity for robberies alleged to have been committed on German plantations during the past four years.

To these demands the King was notified to make reply on the following day, which he did by asking that he be given until the 27th of the month, three days, in order that he might have time to consult his Government and chiefs and make a formal answer.

To this request no reply was made by the German consul, and on the same day, the 24th of August, war was declared.

On the following day Tamasese was proclaimed by the German consul as King of Samoa, against the formal and public protest of the American and British consuls. And on the 17th of September, after having been, since the declaration of war against him, a fugitive, Malietoa gave himself up to the German consul, and was taken on board of the *Bismarck*, the flag ship of the German squadron.

It is not my purpose to comment upon the grounds of the recent German action in Samoa, as they have been above stated, although I regret that the powerful Government of Germany did not find it possible to take a more liberal view of the conditions of Samoan life and civilization, and the unfortunate situation of the native King, who, in regarding himself as the rightful ruler of the islands, could point, in confirmation of his title, to a long series of acknowledgments of his authority by all three treaty powers.

But it is impossible to ignore the fact that all the grounds for hostile action on the part of Germany above stated existed long prior to the meeting of the conference in this city, and some of them even anterior to its proposal, the acceptance of which was followed, as I was informed, by appropriate action to maintain the *status quo* in the islands. During all the sessions of the conference nothing was said to disturb this impression, nor was intimation given of any other course being contemplated when the conference was temporarily adjourned. The first intimation of belligerent intent on the part of Germany against Malietoa was, as I have already stated, given to me by the German minister on the 29th of August last, five days after war was actually declared against him, and necessarily several weeks after it was determined upon; and my first notification that war had been declared and that Germany intended to depose Malietoa was also *post factum*, being given to me by the German minister on the 23d of September last, six days after the Samoan King was taken on board of the *Bismarck*.

This statement of recent occurrences should suffice to exhibit the earnest efforts of this Government to effect a peaceable settlement of Samoan affairs, honorable to all concerned, and just and equitable not only as between the treaty powers, but also as between them and the natives; and, further, to show that if those efforts have, after accept-

ance, been suddenly disregarded and defeated, the fact is one for which this Government can not be regarded as in any degree responsible.

Being solicitous, however, still to accomplish in the direction indicated all that the altered situation in Samoa would admit of, I sent identical telegraphic instructions on the 11th of October last to yourself and the United States minister at London stating that the United States consul-general at Apia reported a most distressing condition of affairs, which continued war would only make worse; that the consul had been instructed to observe strict neutrality, but this Government was anxious, pursuant to its treaty with Samoa, to urge a peaceful adjustment and considerate treatment of Samoans. You were further instructed to propose to the Governments to which you were respectively accredited the immediate election of a King and a Vice-King as agreed on in conference, and the issuance by the treaty powers of identical instructions to their representatives in the islands to promote such an election, leaving other measures which had been discussed, but not agreed upon, to be hereafter arranged.

Two days later I received from you a report that it was not understood at Berlin that a new election had been agreed on in conference, but that a new election had actually taken place.

Subsequently, I was informed by the United States minister at London that he had submitted my proposal to the British Government, but had withdrawn it, before receiving a reply thereto from Lord Salisbury, upon a report from you that an election had occurred.

How this misconception on the part of the German Government arose I am at a loss to understand. For at the first session of the conference the British and German ministers both proposed a new election of a King. The plan submitted by me, which was drawn up after a careful consideration of the report of the American special agent to Samoa, suggested the continued recognition of Malietoa, as most likely to insure a native Government at once stable and acceptable to the natives. But after hearing the objections of the German minister to that course, and his statements to show that Malietoa was supported only by a minority of the natives, I readily assented, at the second session of the conference, to the proposal made on the part of Germany, and concurred in on the part of Great Britain, that a new election of King should be held.

As proposed by the German minister, this election was "to be freely made by the chiefs and the people of Samoa." As put forward by the British minister the view of his Government was "that a fresh appeal should be made to the native population for the election of a new King." As assented to by me, the new election was to be a "native election, free and unawed." At the fifth session of the conference, the election also of a Vice-King was, by unanimous consent, placed among the agreed points, with a view to consulting native customs. And by reference to the protocols it will appear that throughout all the discussions the fundamental principle was kept in view and distinctly agreed upon and maintained that the election should be made freely by the natives themselves without the interference of any of the treaty powers or their representatives.

The recent installation of a new Government by the German consul is not considered by this Government as satisfying the conditions of that acknowledged principle; nor are they regarded as having been fulfilled by the subsequent signature, on the 15th of September, by Samoan chiefs, under the eye and direction of German representatives, of a paper

acknowledging the Government which had been so set up, and which, as information derived from various sources has led me to conclude, is still upheld and controlled by those who brought it into existence.

In its general features it appears to be far more objectionable than the plan of government proposed by the German minister at the conference in this city. For, although that plan was one of foreign control of the islands, yet it carried with it the guaranties of the Imperial Government. But the Government of Tamasese can be regarded as nothing else than the government of the islands by the local German commercial and landed interests, through Herr Brandeis, Tamasese's sole minister.

On the 1st of November last Baron von Zedtwitz, the German chargé d'affaires, called at this Department and made complaint that the American consul at Apia gave active expression to an anti-German policy by conduct in excess of his powers and competency, incompatible with neutrality, having, under the form of reference to municipal institutions "recognized by Germany and England, but not by the United States," arbitrarily intervened and liberated prisoners, and consequently compelled the commander of the German squadron to occupy Apia. And the complaint closed with the request that the consul-general be set straight, and also instructed to observe a strictly neutral attitude in order that the evacuation of Apia by the German forces might be effected.

This reference to the idea of neutrality was not clear to me, as the deposition of Malietoa, which was the avowed purpose of Germany's declaration of war against him "personally," had already been accomplished. He had not only been deposed, but was then actually a prisoner on a German ship of war, and a new government had been set up by the German consul in the place of that which had been maintained by Malietoa. The German occupation of Apia was, as then and now stated on German authority, at the request of the new government, for its own purposes, and not as an act of war on the part of Germany.

But the point that caused my greatest surprise was the objection made to the consul of the United States taking any part in the municipal government of Apia, and the statement that the municipal institutions were not recognized by the United States.

Less than a month previously complaint had been made to me by the German chargé d'affaires that the consul of the United States, in his capacity as member of this municipal board, had claimed jurisdiction for that body in a suit not properly belonging to it, but to the German consul independently; and I telegraphed instructions to the American consul not to assume control in that case, the jurisdiction of the municipal court over it being questionable.

While it is true that the United States had not become formally a party to the municipality convention, with the advice and consent of the Senate, yet, although this Government was not bound by treaty obligation in the matter, it had always given the municipal organization the fullest practical support and recognition, as an existent local government; and the American consul, being clothed by the laws of the United States and our original treaty with Samoa with judicial powers, had discharged through that organization, from its commencement eight years ago, judicial functions for the common advantage of all the treaty powers, and with their full assent and co-operation. And Americans, as well as the members of other foreign nationalities represented in Apia, had paid taxes to support the municipal government.

It is therefore difficult to understand why complaint against the

American consul should have taken the form or been placed upon the grounds above stated.

At the present time the municipal government has been declared in abeyance by the German consul. It does not, however, appear to be disputed that the only reason avowed for the consul's action was the fact that the American consul, Mr. Sewall, was fifteen or twenty minutes late at a special meeting of the board, which was called for the hour of ten o'clock in the morning instead of the customary hour in the afternoon, and that when the government was so declared to be in abeyance for the alleged refusal of Mr. Sewall to attend he was on his way to and already near the place of meeting. It is admitted that the British consul stated to His Imperial Majesty's consul his "impression" that Mr. Sewall was coming to the meeting, and I have reason to believe that Her Majesty's consul might authoritatively have stated from Mr. Sewall himself a positive assurance that he was coming.

Immediately upon the municipal government being so declared in abeyance by the German consul, the German naval forces took possession of Apia upon the request of Tamasese, and on the ground of the absence just then, and in such manner created, of the regular form of government of the municipality.

The conclusion at which I am forced to arrive from this review of recent events in Samoa is that the present unfortunate situation there is due not to any action on the part of the representatives of the United States, but to the fomentation by interested foreigners of native dissensions, and to the desire exhibited in a marked degree by those in charge of local German interests to obtain personal and commercial advantages and political supremacy.

But this communication ought not to be concluded without the statement that, in the opinion of this Government, the course taken by Germany in respect to Samoa upon the temporary adjournment of the conference in this city, as above detailed, can not be regarded as having been marked by that just consideration which the ancient friendship between the United States and Germany entitles this Government to expect; that the present condition of affairs in the islands can not, in view of the circumstances under which it was brought about and is still maintained, be regarded by the United States as satisfactory; and that, to the end of creating a more acceptable situation in the islands, the native Government should be placed upon a basis more compatible with independence and impartiality in the discharge of its duties to all the treaty powers.

Prince Bismarck has referred in his note, as the German minister did in the conference, to "guaranties" to be demanded and obtained from the Samoan Government. Whenever these guaranties have been explained they have been found virtually to involve the foreign control of that Government, as was proposed in the German-Samoan convention of the 10th of November, 1884, and also in the plan presented by the German minister in the conference.

The ground upon which such control has been deemed essential is the weakness of the native Government. And it can not be doubted that if the Government of Samoa were now administered by any one of the treaty powers the islands would be governed more nearly in accordance with the forms and usages of civilized states, and order be better assured.

But, for the very reason that the native Government of Samoa is weak, it has seemed all the more clear to the United States that the

control of the islands by any strong foreign power, or its representatives, would defeat the great object of securing native independence and autonomy, and the practical neutralization of the group. Under such control a native government would necessarily cease to have more than a nominal existence; the native element in the islands, deprived of voice and influence in the management of their affairs, would quickly succumb to the aggressive and exclusive tendencies of the foreign residents; and, under these circumstances, the islands would inevitably become a colony of the foreign power by which, or by whose representatives, the Government was actually administered.

These general observations are made because, notwithstanding the efforts of the Government to state its views in respect to Samoa in a spirit of entire frankness, it has sometimes seemed that they had not been fully apprehended; or else that the Governments of the United States and Germany, while agreeing to the same general principles, differed as to their relative importance and the order in which they should be applied. Owing, doubtless, to her commercial preponderance in the islands, to Germany the primary object has seemed to be the establishment of a stronger government. To the United States, the object first in importance has seemed to be the preservation of native independence and autonomy. And so regarding the matter, this Government, while not questioning Germany's assurances of the absence of any intention on her part to annex or establish a protectorate over the islands, has been compelled to dissent from propositions which seemed to subordinate all other considerations to the strengthening of the German commercial and landed interests in the islands, and correspondingly to diminish, if not entirely to destroy, the probability of the establishment of a Samoan Government, and of the neutralization of the group, at least in respect to the powers now immediately concerned.

You are at liberty to communicate a copy of this instruction to the German Government.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 280.—Translation.]

Complaint of Malietoa.

CAPITAL OF SAMOA,
Mulinuu, July 14, 1881.

YOUR EXCELLENCY: I have now to inform your excellency of my present opinion, because there is peace in these islands on account of the United States man-of-war, and all the war parties have dispersed and gone to their respective homes. There is peace in Samoa. All Samoa is united in this peace, and joined with the Vice-King. But I now inquire of you, what is the meaning of the thing done by the German man-of-war last night—the violent seizure of guns and the putting of men in prison?

It is the custom in Samoa when peace is proclaimed that there is peace in all things, and all men are free, as though Samoan imprisonment were prohibited, and they are released, and all Samoa is caused to rejoice; but the thing done last night meant persecution, and not love and joy. That thing was bad, when Samoa had peace through America, by which Samoa has been joined together.

May you live!

I am,

MALIETOA,
The King of Samoa.

To His Excellency THOMAS M. DAWSON,
United States Consul.

No. 440.

Mr. Pendleton to Mr. Bayard

No. 573.] LEGATION OF THE UNITED STATES,
Berlin, January 30, 1888. (Received February 13.)

SIR: Referring to my dispatch No. 545, of the 1st ultimo, relating to an outbreak of trichinosis in Germany, I have now the honor to transmit herewith, accompanied by translations, two articles, taken from Berlin newspapers, containing reports, which have not been contradicted, of further alarming outbreaks in this country of the disease referred to. Some one hundred and ninety persons appear to have been thus far attacked by the disease in the present outbreaks, and there is no allegation that they have been occasioned by the consumption of other than domestic pork.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 573.—From Deutsches Tageblatt, January 25, 1888.—Translation.]

GÖRLITZ, *January* 23.

Trichinosis has continued to spread in the Saxon boundary region. The attacks of the disease are no longer confined to Obercunewalde, but have also occurred in Oppach, Lawalde, Beiersdorf, Lauba, Halbau, etc. The number of persons attacked is already over one hundred; but three cases have as yet resulted fatally. As regards the origin of the disease it is said that a butcher of Obercunewalde, on Christmas Eve, made to his customers a present of smoked sausages, in the preparation of which meat containing trichinæ had been used. In all the families which had received and eaten those sausages attacks of the disease occurred.

[Inclosure 2 in No. 573.—From Vossische Zeitung, January 27, 1888.—Translation.]

SAXONY, *January* 26. (Own correspondence.)

In view of the visitations of epidemics of the trichinosis with which several places in Saxony have of late been afflicted, the local authorities (Amtshauptmannschaft) at Plauen, i. V., have recently issued a decree urgently recommending to the individual communities of the district the introduction of obligatory examination for trichinosis. In Ober-Cunewalde the persons attacked by the disease have attained to the number of about 170, and 9 deaths have hitherto occurred. At the village of Obersachsenfeld, near Schwarzenberg, a new epidemic of trichinosis has broken out, resulting as yet in the occurrence of 20 cases of the disease. At Ober-Cunewalde a committee has been formed to aid the poor among the persons attacked.

No. 441.

Mr. Pendleton to Mr. Bayard.

No. 574.] LEGATION OF THE UNITED STATES,
Berlin, January 30, 1888. (Received February 13.)

SIR: I have the honor to send you herewith the bill (with translation) for the amendment of the commonly-called socialist law. Mr. Taylor, with his dispatch No. 54, of November 8, 1878,* transmitted a copy, with

* Printed in Foreign Relations, 1879, p. 351.

translation, of the original law as it finally passed the Reichstag. It has been prolonged several times without material change in its provisions. The amendments propose to give the additional power to deprive offenders of the rights of citizens and to expel them from the Empire, and also to affix a punishment to the offense of a German who, in a foreign country, participates in an assembly held for the purpose of promoting socialistic ends. The prevalent opinion, as expressed by the press of Berlin, is that the additional powers and punishments will not be granted by the Reichstag, but that the law substantially in its present form will be extended.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure in No. 574.—Translation.]

Law concerning the prolongation of the period of activity of the law of October 21, 1878, against the endeavors, constituting a common danger, of the social democracy.

We, William, by the grace of God German Emperor, King of Prussia, etc., decree in the name of the Empire, the assent of the Bundesrath and of the Reichstag having been first obtained, as follows:

ARTICLE I.

The duration of the law of October 21, 1878, against the endeavors, constituting a common danger, of the social democracy (Imperial Law Gazette, page 351), is hereby prolonged until September 30, 1893.

ARTICLE II.

The sections 19 and 22, subdivision 1, are amended as these provisions are below stated under the figures heretofore used:

SEC. 19. Whoever circulates, continues, or reprints a prohibited printed document (sections 11, 12), or a printed document provisionally seized (section 15), is punishable with a pecuniary fine up to 1,000 marks or with imprisonment up to a year.

It will be considered equivalent to circulation when a prohibited printed document is exposed or kept ready for the use of persons sojourning there, in a place of sale, in a drinking saloon, or in any other open place.

SEC. 22. Subdivision 1. Persons who make a business of agitation in behalf of the endeavors designated in section 1, subdivision 2, shall, in case of conviction for contraventions of sections 17 to 20, be punished with imprisonment of not less than two years. In addition to the imprisonment the admissibility of limitation of sojourn may be adjudged.

ARTICLE III.

After the sections 22 and 25 of the law of October 21, 1878, the following sections, 22*a* and 25*a*, shall be inserted:

SEC. 22*a*. The admissibility of the limitation of sojourn under the conditions and with the effects provided in section 22, subdivision 2 and 3, can be adjudged when a judgment on the basis of section 129 of the penal code ensues, and it is established that the condemned has participated in an association having for one of its purposes and occupations to prevent or make ineffectual the execution of this law, or of measures of the administration relating to its execution.

In the above-designated case, as also in the case of section 22, subdivision 1, when judgment has ensued on account of contravention of section 19, or participation as a member in a prohibited association (section 17, subdivision 1), the admissibility of the deprivation of state citizenship may be also adjudged.

Such judgment confers upon the central authority of the state to which the condemned belongs the right to declare the latter to have forfeited his citizenship and to expel him from the territory of the Empire. Such judgment at the same time confers upon the police authority of the country the right to limit the sojourn of the condemned under the conditions and with the effect designated in section 22, subdivisions 2 and 3.

Persons who, pursuant to the foregoing provisions, have been declared to have forfeited their citizenship in one of the states of the Empire also lose the same in every other such state, and can not without the assent of the Bundesrath, re-acquire state citizenship in any state of the Empire.

Whoever having, pursuant to the provisions of subdivision 3, been expelled from the territory of the Empire, shall return to the same without permission, is punishable with imprisonment of from one month to three years.

SEC. 25*a*. The participation of a German in an assemblage which takes place without the territory of the Empire for the purpose of promoting the endeavors designated in section 1, subdivision 2, is punishable with imprisonment. In addition to imprisonment, the admissibility of deprivation of state citizenship may be adjudged (section 22*a*, subdivision 3 to 5).

In testimony, etc.

Done, etc.

No. 442.

Mr. Bayard to Mr. Pendleton.

No. 248.] DEPARTMENT OF STATE,
Washington, January 30, 1888.

SIR: I inclose herewith a copy of a letter to this Department from the Secretary of the Treasury,* relative to pieces of metal known as "spielmarks," representing closely in size, color, and partly in design, several gold coins of the United States, which are imported from Germany; and also relative to imitations of coins, postage stamps, and other obligations of foreign governments and our own, likewise imported from Germany, all of which it is alleged are used for fraudulent purposes.

I will thank you to make inquiry in the proper quarter as to whether the laws of Germany prohibit the manufacture of the articles described in the Treasury Department letter, and to report the result of your inquiries to this Department.

I am, etc.,

T. F. BAYARD.

No. 443.

Mr. Pendleton to Mr. Bayard.

No. 575.] LEGATION OF THE UNITED STATES,
Berlin, February 4, 1888. (Received February 20.)

SIR: I have the honor to inclose herewith copy and translation of the treaty between Germany and the Austro-Hungarian Monarchy, concluded on October 7, 1879.

The real motives producing this publication now, after about nine years, are very much discussed all over the continent and in Great Britain. The suggestions are as numerous and different as the writers. The peace party is of the opinion that the publication will aid the cause of peace by showing how purely defensive the alliance really was and is, and yet how closely it will bring together the allied Governments in case of attack, thus at the same time ministering to the susceptibilities of the Czar, and warning him of the magnitude of the contest he will enter upon. It is believed that the late understanding between Germany and Italy embraces substantially the same points, and goes to the same length. The war party declares that the allies have given up

* Mr. Fairchild to Mr. Bayard, January 21, 1888. See Doc. No. 32, ante, page 35.

the hope of peace, and that this publication is in the nature of a despairing threat to Russia and an appeal for the sympathy of the peace-loving world when the conflict shall soon actually come about.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure in No. 575,—Translation.—Extra edition of the Norddeutsche Allgemeine Zeitung. No. 58.]

BERLIN, *Friday, February* 3, 1888.

The Reichs und Staats-Anzeiger publishes to-day the following:

The Governments of Germany and the Austro-Hungarian Monarchy have determined to publish their treaty of alliance, concluded on the 7th of October, 1879, in order to put an end to the doubts as to its purely defensive objects, which are entertained in various quarters, and which are made to serve divers purposes. The policy of both the allied Governments is guided by the desire to preserve peace, and obviate breaches thereof to the best of their ability. They are convinced that the divulgation of the contents of their treaty of alliance will dispel every doubt on the subject, and therefore they have resolved to publish it. The text is as follows:

Whereas their Majesties the German Emperor, King of Prussia, and the Emperor of Austria, King of Hungary, must regard it as their imperative duty as monarchs to have a care in all circumstances for the security of their realms, and the repose of their peoples; and whereas both monarchs—as during the federal relationship which previously existed between them—will be enabled to fulfill this duty more easily and effectually by the steadfast co-operation of both their Empires; and whereas, finally, such a close connection between Germany and Austria-Hungary can threaten no one, but is rather calculated to consolidate the peace of Europe, as it was established by the stipulations of the treaty of Berlin:

Now, therefore, their Majesties the Emperor of Germany and the Emperor of Austria, King of Hungary, while solemnly promising to each other that they will never attach an aggressive meaning in any direction to their purely defensive agreement, have resolved to conclude a pact of peace and a mutual defense, and for this purpose they have appointed as their plenipotentiaries:

His Majesty the German Emperor, his envoy extraordinary and ambassador plenipotentiary Lieutenant-General Prince Henry VII Reuss, etc.;

His Majesty the Emperor of Austria, King of Hungary, his actual privy councillor, minister of the imperial house and of foreign affairs, Field-Marshal Lieut. Julius Count Andrassy, of Csik-Szent-Király and Kraszna-Horka, etc.;

Who have met this day at Vienna and after exchange of their full powers, which were found good and sufficient, have agreed as follows, to wit:

ARTICLE I.

If, contrary to the hope and against the sincere wish of both the high contracting parties, one of the two Empires should be attacked by Russia then the high contracting parties bind themselves to assist each other with the entire military power of their Empires, and accordingly only to conclude peace by common agreement.

ARTICLE II.

Should one of the high contracting parties be attacked by another power, then the other high contracting party hereby binds itself not only not to assist the assailant of its high ally, but also at least to observe an attitude of benevolent neutrality towards its high co-party. But if, nevertheless, in such an event the attacking power should be supported by Russia, whether in the form of active co-operation or by military measures involving menace to the attacked, then the obligation of mutual assistance with full military power, stipulated for in Article I of this treaty, shall in this case immediately come into force, and then, also, the military operations of both the high contracting parties shall be conducted in common until they conclude a peace in common.

ARTICLE III.

In consideration of its pacific character and in order to obviate all misunderstanding, this treaty shall be kept secret by the high contracting parties, and be communicated to a third power by agreement of both sides only, and on the strength of a special understanding. In view of the sentiments expressed by the Emperor Alex-

ander on the occasion of the meeting at Alexandrovo, both the high contracting parties surrender themselves to the hope that the armaments of Russia will in reality not prove to be menacing to them, and for the present, therefore, they have no occasion to make a communication. But should this hope, contrary to expectation, turn out to be erroneous, then the high contracting parties would look upon it as a duty of loyalty to give the Emperor Alexander, confidentially at least, to understand that they would consider an attack against one of them as directed against them both.

In witness whereof the plenipotentiaries have hereto affixed their signatures and seals.

Done at Vienna this 7th day of October, 1879.

[L. S.] H. VII P. REUSS.
[L. S.] ANDRASSY.

No. 444.

Mr. Pendleton to Mr. Bayard.

[Extract.]

No. 578. LEGATION OF THE UNITED STATES,
Berlin, February 7, 1888. (Received February 25.)

SIR: This morning I handed to Count Bismarck, the Imperial secretary of state for foreign affairs, the copy of the instruction in regard to Samoan affairs, No. 280, which you sent me under date of January 17, 1888.

I have, etc.,

GEO. H. PENDLETON.

No. 445.

Mr. Pendleton to Mr. Bayard.

No. 583.] LEGATION OF THE UNITED STATES,
Berlin, February 20, 1888. (Received March 8.)

SIR: Referring to my dispatch No. 574, of the 30th ultimo, with which I inclosed a bill amending the "socialist law," then pending before the Reichstag, I have now the honor to inform you that the validity of the original law has been prolonged for a period of two years, to expire September 30, 1890, the Reichstag declining to adopt any of the amendments proposed by the Government.

I have, etc.,

GEO. H. PENDLETON.

No. 446.

Mr. Pendleton to Mr. Bayard.

No. 584.] LEGATION OF THE UNITED STATES,
Berlin, February 21, 1888. (Received March 12.)

SIR: Referring to your instruction No. 284 of the 30th ultimo, I beg to state that no German law appears to exist which prohibits the manufacture of "Spielmarken," as such, alleged in the inclosures accompanying your instruction to be largely imported into the United States, and there used for fraudulent purposes. Pieces of metal having a super-

ficial resemblance to the coins of this country, and called "Spielmarken," are in very general use here as counters or tokens in card playing and in other games, and it does not appear that any objection to their manufacture has been raised by the authorities. With respect to the "Spielmarken" referred to in your instruction and its inclosures as representing closely in size, color, and partly in design the several gold coins of the United States, different views as to the permissibility of their manufacture might be taken by the German authorities if an opportunity to inspect the particular ones complained of were afforded them.

From an examination of the laws, it would appear that liability to punishment for the manufacture in this country of "Spielmarken" would depend upon the exactness of the imitation and the intent with which they were made; in short, a case of counterfeiting of coinage would have to be made out.

Under the title of "Crimes and misdemeanors affecting coinage," sections 146 to 152, inclusive, of the Imperial Penal Code, make what would appear to be ample provision for the punishment of counterfeiting, imitating with fraudulent intent all domestic and *foreign* coinage, paper money, and a large variety of securities regarded as the equivalent of paper money, as well as for the punishment of the making of and procuring and having in possession with fraudulent intent, dies, plates, etc., to be used in manufacturing the same. Section 4 of that code even goes so far as to declare a *foreigner* counterfeiting *foreign money* in a *foreign* country liable to the penalties imposed for the crimes (not for the misdemeanors) affecting coinage in the sections above cited.

As regards the inquiry relating to postage-stamps: Under the title of "Forgery of documents," sections 275 and 276 of the code referred to impose punishment for the use of counterfeited postage, revenue, and other stamps, provided the person using them does so with the knowledge that they are counterfeits, and also for the manufacture of the same with the purpose of using them as genuine. The word "foreign" is not used in the statute in this instance, and there seems to be some doubt as to the intention of the law in this case and the liability to punishment for the act as affecting foreign stamps, although, as I am informed, one judicial decision (not by the supreme court) has been had declaring such liability to exist.

Under the title of "Trespasses (Übertretungen)," subdivision 4 of section 360 of the same code imposes punishment upon persons who, without being thereto empowered in writing by competent authority, manufacture or deliver to any one other than such competent authority dies, plates, etc., which may serve for the production of metallic or paper money, and of other values, among which postage-stamps are, however, not included, designated as equivalent to paper money in section 149 of the code. Subdivision 5 of section 360, above mentioned, imposes the same penalty upon persons making impressions from such dies, plates, etc., or delivering such impressions to any one except the competent authority. The following subdivision, No. 6 of the same section, imposes the same punishment upon persons who manufacture or put in circulation cards recommending wares, announcements, or other printed matter, or representations which in form or ornamentation resemble paper money, or the values designated as paper money in section 149, or who manufacture dies, plates, etc., which may serve for the production of the articles enumerated. It will be observed that the statute here speaks of representations which in form and color resemble paper money and its equivalent only, and not of such as resemble metallic money—"Spielmarken," for instance.

To recapitulate: The manufacture of "Spielmarken," as such, is not prohibited; the counterfeiting of foreign as well as of domestic metallic and paper money, and of values to be regarded as the equivalent of paper money, is prohibited; the use, with the knowledge of their being counterfeits, and the manufacture, with the purpose of using them as genuine, of domestic and (in the light afforded by one judicial decision) of foreign postage stamps is prohibited; the manufacture of cards, etc., which in form and ornamentation resemble paper money or its equivalent, is prohibited with respect to domestic and, presumably, with respect to foreign paper money and its equivalent, although no judicial interpretation of the statute on the latter point is known to the legation.

In conclusion, I beg to suggest that, if feasible, samples of the "Spielmarken" and of the "imitations of coins, postage-stamps, and other obligations of foreign governments and of our own, in full size and in miniature and of exactappearance of genuine issues", which are stated in an inclosure to your instruction to be imported into the United States from Germany, their importation leading to great abuse and injury, to be furnished for the purpose by the chief of the secret-service division of the Treasury Department, be transmitted to this legation, together with such representations as may be deemed necessary and appropriate, for submission to this Government.

Such action would, perhaps, lead to the prosecution of offenders; to the testing of the intendment, where doubtful, of the German laws relating to this subject; to their amendment if found necessary in the interest of justice; and to the ultimate punishment of the manufacturers and suppression of the manufactures complained of, if the latter are found to be unlawful.

I have, etc.,

GEO. H. PENDLETON.

No. 447.

Mr. Pendleton to Mr. Bayard.

No. 585.] LEGATION OF THE UNITED STATES,
Berlin, February 22, 1888. (Received March 12.)

SIR: There appeared at this legation yesterday a passport applicant, bearing a "minor's certificate of citizenship" issued by the probate court of Montgomery County, at Dayton, Ohio, on October 20, 1887, to one Frank Kessel, and made under oath the usual statements exacted from all naturalized passport applicants.

In his affidavit, a copy of which is herewith inclosed, together with a copy of the "minor's certificate of citizenship" above mentioned, the applicant in question swears that he was born in Germany on June 13, 1855; that he emigrated to the United States in 1882, arriving at Baltimore in May of that year; that he was naturalized as a citizen of the United States before the probate court of Montgomery County, at Dayton, Ohio, on the 20th day of October, 1887, as shown by the certificate of naturalization submitted by him; that he is "the identical person referred to in said certificate;" that he last left America in November, 1887, and that he intends to return to the United States in about one year, with a purpose of residing and performing the duties of citizenship there. He desires the passport for the purpose of satisfying the

police authorities here, who require passports of almost all foreigners who remain in Berlin for more than a few weeks.

By comparing Kessel's affidavit and his citizen papers it will be observed that one or the other must be wrong, for in his affidavit he swears to having emigrated to the United States in 1882, when he was nearly twenty-seven years of age; whereas in his certificate of naturalization it is stated that it was proven to the satisfaction of the court by the oaths of two men, therein named, "that he (Frank Kessel) resided in said United States three years next preceding his arrival at the age of twenty-one years," which would have rendered unnecessary a previous "declaration of intention."

Kessel maintains that this statement in his citizen paper is a mistake. He claims that he himself never swore to any such fact wittingly, and did not even know that it was so stated in his certificate. He claims also to have taken out a "first paper" naturalization at the same court at which he received his final paper, two years after his arrival in the United States, but that the said "first paper" was retained by that court on the delivery to him of his second or final paper.

Kessel appears to be an honest man and perfectly sincere and frank in his statements made at this office. I have advised him to write personally to some friend in Dayton, Ohio, or to the clerk of the probate court there, for certified copies of both of his papers of naturalization, or of the record of the court of his "declaration of intention" and of the decree of his final naturalization. This course was advised in view of the possibility of a clerical mistake having been made by the filling in of a wrong form of certificate of naturalization.

In view of the above facts, I have deemed it advisable to submit to you this application, with the accompanying documents, before issuing a passport to Kessel, in order that, after causing such inquiries to be made as you may think proper, you may instruct me in regard thereto, and also as to the disposition to be made of Kessel's original certificate of naturalization, at present retained by the legation.

I am, etc.,

GEO. H. PENDLETON.

No. 448.

Mr. Pendleton to Mr. Bayard.

No. 586.] LEGATION OF THE UNITED STATES,
Berlin, February 22, 1888. (Received March 12.)

SIR: Referring to my recent dispatches, Nos. 557 and 576,* relating to the then pending bill for the increase of the effective strength of the German army, I beg now to inform you that the measure which had, at the date of my last-mentioned dispatch, been adopted on its second reading has since been enacted *en bloc* and published as a law under date of the 11th instant.

Since the latter date a pamphlet has been published in this city, which contains, in addition to the law itself, heretofore transmitted to the Department, certain decrees of even date therewith, issued by the Emperor in execution of its provisions, and also an assortment of the blank forms to be used in its application.

* Not printed in this volume.

With my dispatch No. 557, above referred to, I transmitted a tabular statement of the changes contemplated by the bill. In the light of the ordinances decreed in execution of the measure as since enacted, a better appreciation than was then possible is afforded of the bearing of the changes which have been made, and which, as stated by Prince Bismarck in his recent speech in the Reichstag, are expected to add some 700,000 men to the effective strength of the German army in time of war.

Military service in this country may be conveniently considered under three principal heads: (1) Service in the standing army, with its two grand subdivisions of service "with the flag," active present service and service with the reserves; (2) service with the Landwehr; and (3) service with the Landsturm.

In addition to the three above-enumerated phases of service there is that of the Ersatz-Reservisten (Replacement Reserves), consisting of men wholly or partially dispensed from present service on account of physical or mental unfitness or peculiar domestic relations; for instance, the dependency for her support of a widowed mother upon her only son. This exemption and the consequent assignment to the Ersatz-Reservisten may have existed from the time when the individual concerned first became liable to military service in general, or may have arisen, and such assignment taken place in the course of his service.

With respect to liability to service in the standing army as above defined the new law has made no changes whatever. Hence, hereafter, as has been the case heretofore, every capable German is required to serve in the standing army for the period of seven years, a period as a rule embraced between the completion of the twentieth and the commencement of the twenty-eighth year of his age, the first three years of such service being with the "flag;" the remaining four with the reserves. The new law has, on the other hand, materially modified the provisions heretofore existing with respect to service with the Landwehr, the Landsturm, and the Ersatz-Reservisten.

As regards the Landwehr, heretofore liability to this service existed as a rule for the period of five years, beginning with the completion of the service in the standing army and ending with the commencement of the thirty-second year of age. For the future this liability has been extended by a period of six years, by the creation of a Landwehr of the second levy (Zweites Aufgebot), so that a man henceforth remains liable to service in one or the other of the Landwehr levies until the 31st of March of that year in which he completes the thirty-ninth year of his age. In case the army is entered before the completion of the twentieth year, liability to service ceases at a correspondingly earlier age. To recapitulate, there are three years with the "flag," four with the reserves, five with the Landwehr of the first, and six with the Landwehr of the second levy; in all, eighteen years thus far. The conditions of Landwehr service prescribed by the old are declared by the new law to apply to the Landwehr of the first levy as now constituted, whereas the propriety and necessity of securing to the members of the second levy certain advantages over the younger men composing the first levy has found expression in the new law and in the ordinances decreed pursuant to its provisions. Of these advantages the following are the principal: The men of the second Landwehr levy can not be required to appear for exercises or musters. Such reports respecting themselves as are necessary may be made in their behalf by members of their families, except in the case of the issue of a particular ordinance becoming necessary in time of war, or of danger of an outbreak of war. They need no permission to emigrate, but are only required to notify the appro-

priate military authority of their intention to do so, and if able to show by consular certificate that they have acquired, in a country situated outside of Europe, positions which assure them a livelihood, as merchants, artisans, etc., the leave of absence granted may be enlarged to an entire release from further military duty and the obligation of returning in case of mobilization.

As regards the Landsturm, heretofore all men not belonging to the army or the navy were liable to service with the Landsturm from their completed seventeenth to their completed forty-second year. By the new law liability to this service is extended over a further period of three years, until the completion of the forty-fifth year of age. A division of the Landsturm into two levies, as in the case of the Landwehr, has now also ensued. To the first levy belong for a period of seven years all owing Landsturm duty until the 31st of March of that year in which they complete the thirty-ninth year of their age. It may in this connection be remarked as strange that the Landsturm of the first levy and the Landwehr of the second levy remain liable for duty until the same period, viz, for the seven years preceding the completion of the thirty-ninth year of age. This is accounted for, however, by the different purpose which the two subserve. While the latter constitutes a part of the army taking the field, the Landsturm of the first levy, to which the whole mass of the imperfectly trained Ersatz-Reservisten and other disposable untrained men belong, is used solely to fill up the ranks of the army when necessary. To the second levy of the Landsturm belong the remaining six-year classes of older men; that is to say, all who have completed their Landwehr service with a total of eighteen years of liability up to that time, as before stated, enter at once into liability to serve in the second levy of the Landsturm, to be released from the same after the expiration of a further period of six years, the forty-fifth year of their age and the entire period of twenty-five years of liability to any military service being then completed. The Landsturm, intended mainly to be used for defensive purposes, to repel invasion, could heretofore be employed only after all the year classes of the Landwehr and the available men belonging to the Ersatz-Reservisten had been called out; now they may, in extraordinary emergencies, be used to supplement the strength of the army proper. Except when the Landsturm has been called out, those owing duty in the same are hereafter not to be subjected to any sort of military control or exercise. In case it is called out, however, which it may be under the new law by commanding generals in the contingency of immediate danger, otherwise only by imperial decree, its members are subjected to military, penal, and disciplinary laws. The calling out of the first levy ensues by year classes, beginning, in so far as military necessities permit, with the youngest. Men owing Landsturm duty who are sojourning abroad must return home in case that body is called out unless they have been expressly exempted therefrom, which may be effected by consular certificates, as in the case of the Landwehr men. All who had completed their Landsturm period of duty before the entry into effect of the new law, as well as all Alsace-Lorraines born before 1851, although otherwise liable under that law, are expressly exempted from its operation, and are freed from Landsturm duty.

As regards the Ersatz-Reservisten, in the earlier part of this report these were defined as men exempted from present service on account of physical or mental unfitness, peculiar domestic relations, and other grounds. Heretofore they were divided into two classes. The first con-

sisted of partially trained men who had not completed the thirty-second year of their age, of which category an aggregate of the classes for five years sufficed to fill the ranks of the army on a war footing in case of mobilization. The second class consisted of men wholly dispensed from service in time of peace on account of imperfect physical or mental ability. Under the new law there will hereafter be but one class of Ersatz-Reservisten, which will consist of the men belonging to the first class under the old law as above defined, whereas those belonging to the second class as heretofore constituted are in future to be assigned to the Landsturm of the first levy. Liability to service as Ersatz-Reservisten extends over a period of twelve years, reckoned from the 1st of October of the year when liability begins, from the twentieth to the thirty-second year of age. At the first annual spring "control-muster" following the expiration of this period those Ersatz-Reservisten who have had the benefit of military training are assigned to the Landwehr of the second levy, the rest to the Landsturm of the first levy.

From the preceding statements respecting the newly established military system, it will be perceived that a German will henceforth be liable to serve in one or another phase of the performance of military duty for the period of twenty-five years, embraced as a rule, between his completed twentieth and his completed forty-fifth year of age. In time of peace it is, however, it should be borne in mind, a question of liability to service, and not of service itself, except as regards the initial three-year period of active performance of duty with the "flag" and a few subsequent periods of not more than two weeks duration each, when he is called out for military exercises. If there be no war and no mobilization during the period of liability to service of the individual German, he will perform no service other than as above stated. If, however, there be war throughout that entire period he will, while capable, perform service throughout that entire period.

The increase in the number of men that will be available for military purposes under the new law has been estimated, as before stated, at 700,000. Of this number some 500,000, derived from the extension of Landwehr duty by the creation of a second levy, embracing six-year classes of trained men, will be available for service with the armies taking the field. The remaining 200,000, representing three-year classes of trained men available for defensive purposes, will accrue from the extension of liability to Landsturm service, from the forty-second to the forty-fifth year of age. The amount of some 278,000,000 marks, appropriated for the purpose of carrying out the provisions of the new law, will be largely used in equipping and arming the Landsturm men, with respect to whom the chancellor of the Empire declared, in his recent speech, that these fathers of families, men of over thirty years of age, this best human material afforded by the German nation, should be clad in the best clothing and armed with the very best arms, and not sent to battle, as had heretofore sometimes been the case, with arms that were not good enough for their younger brethren, the troops of the line.

I desire to acknowledge my obligation to Mr. Coleman, who has prepared the above, whose accurate knowledge of the German language and the civil and military institutions of the Empire is always to be relied on in investigating and explaining the effect of changes of the laws.

I have, etc.,

GEO. H. PENDLETON.

No. 449.

Mr. Bayard to Mr. Pendleton.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 9, 1888.

PENDLETON,
Minister, Berlin:

The President desires you to make known through the foreign office that the death of the illustrious and venerable Emperor of Germany has deeply aroused the sorrow and sympathy of the people of the United States and their Government.

BAYARD.

No. 450.

Mr. Pendleton to Mr. Bayard.

No. 589.] LEGATION OF UNITED STATES,
Berlin, March 12, 1888. (Received March 26.)

SIR: In execution of the telegraphic instruction of the President received from you the 10th instant, I had the honor to address at once to Count Bismarck a note of which within is a copy. This morning I received a reply dated the 10th instant, of which I send also copy of the original and translation.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 589.]

Mr. Pendleton to Count Bismarck.

F. O. 341.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, March 10, 1888.

The undersigned, envoy, etc., of the United States of America, is instructed by the President of the United States to make known to His Majesty the Emperor and King, in the most feeling and fitting terms, that the death of the late illustrious and venerable Emperor of Germany has deeply aroused the sorrow and sympathy of the whole people of the United States and of their Government.

The undersigned, while expressing personally his sincere participation in this sentiment, avails himself, etc.

GEO. H. PENDLETON.

[Inclosure 2 in No. 589.—Translation.]

Count Bismarck to Mr. Pendleton.

FOREIGN OFFICE,
Berlin, March 10, 1888.

The undersigned has had the honor to receive the esteemed note of to-day, wherein Mr. Pendleton expresses the heartfelt sympathy of the President of the United States and of the American people in the death of the deceased Emperor William.

The undersigned has not failed to inform His Majesty the now reigning Emperor of the warm words in which the friendly disposition of the President and his government for the Imperial house and the German people have been communicated.

The Imperial minister in Washington has been instructed by telegraph to express to the Government of the United States sincere and hearty thanks for its sympathy in the deep sorrow which oppresses all Germany.

Whilst the undersigned permits himself to thank kindly the envoy for the expression of his personal feelings, he avails himself, etc.

H. BISMARCK.

No. 451.

Mr. Pendleton to Mr. Bayard.

No. 593.] LEGATION OF THE UNITED STATES,
Berlin, March 17, 1888. (Received April 3.)

SIR: I have the honor to inclose herewith the originals and translations of a proclamation to the people of Germany, and an open letter to Prince Bismarck, as the head of the ministry, both made public last Monday by the Emperor Frederick III, immediately after his arrival at Charlottenburg last Sunday evening. It seems to me that there is a noble frankness about both documents, delineating a policy to be pursued by the acceding Emperor, full of promise for the German people, and extremely creditable to him.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 593.—Translation.]

Proclamation of the Emperor.

TO MY PEOPLE:

The Emperor has completed his glorious life.

In the much-beloved father whom I weep, and whom, with me, my royal house mourns with profoundest grief, Prussia's faithful people has lost its fame-crowned King, the German nation the founder of its unity, the re-established Empire the first German Emperor.

His revered name will remain inseparably connected with the greatness of the German fatherland, in whose recreation the persevering labor of Prussia's people and prince has found its brightest reward.

In elevating with never-tiring sovereign care the Prussian army to the height of its grave mission, King William laid the sure foundation for the victories won by German arms under his guidance, which led to national unity. He assured thereby to the Empire a position for which every German, until then, yearned, but hardly dared to hope.

What he achieved for his people in hot, sacrifice-entailing conflicts, it was vouchsafed to him to strengthen and promote by long years of laborious work in times of peace.

Secure in the consciousness of her own strength, Germany stands respected in the council of the nations, craving only to be permitted to enjoy the peaceful development of what he has achieved.

The accomplishment of this we owe to Emperor William—to his never-wavering fidelity to duty, to his unceasing activity, consecrated only to the welfare of the fatherland, supported by the self-sacrificing, undeviating devotion shown by the Prussian people, and shared by all branches of the German race.

Upon me have now devolved all the rights and duties which are connected with the crown of my house, and which, during such time as God's will may allot to my reign, I am determined to faithfully observe.

Profoundly impressed with the magnitude of my task, my sole endeavor will be to continue the work in the sense in which it was begun; to make Germany a stronghold of peace, and in accord with the united Governments as well as the constitutional bodies of the Empire and Prussia to promote the welfare of the German land.

In my faithful people, which, throughout centuries of history, in good as in evil days, has stood by my house, I place my unreserved trust. For I am convicted that upon the foundations of the unseparable bond between prince and people, which, independently of all changes in the life of the state, constitutes the imperishable inher-

itance of the Hohenzollern race, my crown will ever as securely rest as does the prosperity of the country to whose government I have been called, and to which I promise to be a just and faithful King, in joy as in sorrow.

May God grant me blessing and strength for this work to which my life shall henceforth be dedicated.

BERLIN, *March* 12, 1888. FREDERICK III.

[Inclosure 2 in No. 593.]

Emperor Frederick III to Prince Bismarck.

MY DEAR PRINCE: At the commencement of my reign it is a necessity for me to turn to you, the first servant, well tried through many years, of my father, who now rests in God.

You are the true and courageous counselor who gave form to the aims of his policy and secured their successful accomplishment.

To you, I and my house remain indebted with warmest thanks.

You, above all, have therefore the right to know the stand-points which will be the guiding principle in the conduct of my Government.

The constitution and laws of the Empire and of Prussia must above all rest on the veneration and morals of the nation. The concussions which frequent changes in State institutions and laws produce are, therefore, to be avoided when possible.

The promotion of the aims of the Imperial Government must leave undisturbed the firm foundation upon which the Prussian state has hitherto securely rested.

In the Empire the constitutional rights of all the united governments must be as conscientiously respected as those of the Reichstag; but from both the same respect for the rights of the Emperor are to be expected. At the same time it must be borne in mind that these reciprocal rights are intended only to promote the public welfare, which remains the supreme law, and that newly appearing undoubted national needs must always receive the full measure of attention they deserve.

The necessary and surest guaranty of the unimpeded execution of these tasks I see in the undiminished maintenance of the defensive power of the country, of my tried army, and of the promising navy, upon which important duties devolve in consequence of our acquisition of possessions beyond seas; both must at all times be at the height of excellence and of perfection in organization, which has founded their fame and assured their continued efficiency.

I am determined to conduct the Government in the Empire, as in Prussia, with a conscientious observance of the provisions of the constitutions of each. These have been founded by my predecessors on the throne in a wise appreciation of the unquestionable needs and of the difficult problem of social and state existence, and must be respected by all in order that their strength and efficacy may be assured.

I intend that the principles of religious toleration which have been for centuries held sacred by my house shall continue to protect all my subjects, to whatever religious sect or confession they may belong. Each of them stands equally near to my heart; have not all equally shown complete devotion in times of danger?

In unison with the views of my Imperial father, I shall warmly support all efforts calculated to further the economic prosperity of the various classes of society, to reconcile conflicting interests, to alleviate to the best of my ability unavoidable evils, without, however, encouraging the idea of the possibility of putting an end to the ills of society by the intervention of the State.

As closely connected with the social questions, I regard that of the education of youth. If, on the other hand, higher culture is to be made accessible to larger circles, we must avoid the creation of serious dangers by superficial education, which gives rise to ambitions which the economic resources of the nation can not satisfy, and at the same time take care that misdirected efforts for higher culture do not lead to neglect of suitable education.

Only a generation growing up on the basis of the fear of God, with simplicity of morals, will possess sufficient powers of resistance to overcome the dangers which, in a time of rapid economic activity, arise for the entire community through the examples of habits of exaggerated luxury in individuals. It is my will that no opportunity be lost to oppose in the public service the temptation to disproportionate expenditure.

To every proposition of financial reform my unprejudiced consideration is assured in advance, if the long attested economy in Prussia should not permit the avoidance of the imposition of new burdens and a diminution of demands heretofore made upon the country.

The right of self-government accorded to the greater and lesser communities in the state I regard as beneficial; on the other hand, I submit for consideration whether

the right to impose taxes conferred on these communities, and exercised by them, without sufficient regard for the burdens imposed at the same time by the Empire and state, may not disproportionately bear upon individuals.

It will in like manner have to be considered whether, in the organization of authorities, a simplifying change appears admissible through which a diminution of the number of the employed would make an increase in their compensation possible.

Should we succeed in preserving in their strength the foundations of state and social existence, it will afford me peculiar satisfaction to promote to full development the richest flowers which German art and science put forth.

For the realization of these my intentions I reckon on your oft-proven devotion and the assistance of your tried experience.

May it thus be vouchsafed to me, acting in unison with the Imperial bodies, with the devoted activity of the representatives of the people and of all the authorities, and with the trustful co-operation of all classes of the population, to lead Germany and Prussia to new honors in the domain of peaceful development.

Regardless of glory, of renown-bringing deeds, I shall be content if it can be some day said of my Government that it was beneficial to my people, useful to my country, and a blessing to the Empire.

Your well-inclined,

FREDERICK III.

BERLIN, *March* 12, 1888.

No. 452.

Mr. Pendleton to Mr. Bayard.

No. 595.] LEGATION OF THE UNITED STATES,
Berlin, March 20, 1888. (Received April 2.)

SIR: I have the honor to inclose herewith and to submit for your consideration the entire correspondence* with the consul-general at Frankfort-on-the-Main, and with Mr. Samuel R. Honey, of Rhode Island, touching the income tax levied upon the wife of Mr. Honey, temporarily residing with her daughter at Frankfort-on-the-Main.

It appears that Mrs. Honey is in receipt of a monthly allowance from her husband to defray her own and her daughter's expenses.

The collection of the tax first levied was successfully resisted by the consul-general on the ground that the residence in Frankfort permitted by the law with freedom from taxation had not then been continued for the year.

When the second levy was made, the consul-general contested the legality of the tax on the several grounds that Mrs. Honey was a married woman; that she had no independent income or property, and that the allowance of a monthly sum by her husband for her support could not be called her income. The position and argument appear to have been stated with such force and zeal by Mr. Mueller that he was partially or wholly successful, but as the lady was residing in Germany and the money for her expenditure, by whatever name called, came within the jurisdiction periodically, the assessment seems to have been somewhat changed, and now to appear as made against either the money or Mr. Honey. To this, objection is made that Mr. Honey is not domiciled, or even temporarily sojourning in Germany, and that he and his property of all kinds are taxed in Rhode Island.

It seemed to me that all the questions involved were judicial ones, proper for the consideration of the legal tribunals of Germany, and that, as grave differences of opinion as to the proper interpretation of the law existed between the consul-general and Mr. Honey on the one side and

* Only selections from this voluminous correspondence are herewith printed, the substance of it being sufficiently disclosed in the dispatch and selected inclosures.

the tax-assessing officials on the other, it was a case in which those tribunals should be at least primarily invoked for an authoritative interpretation, and that at this stage the subject was not one for diplomatic intervention. I therefore advised the consul-general and Mr. Honey to exhaust the legal remedies by proper proceedings in the courts. For some reason, not very clearly expressed, this course has seemed distasteful to Mr. Honey, and, as I should infer from his last two letters, to have been rejected. Those letters seem also to close his correspondence with the legation. There is no reason to doubt the intelligence and impartiality of these courts. If their decision should accord with the contention on the part of the consul-general and Mr. Honey, the whole subject would be satisfactorily and finally disposed of. If they should affirm the validity of the assessment, the facts as found and the law as authoritatively stated might be reported to the Department for such action as it might deem proper.

I beg to express the hope that my course in this case will meet the approval of the Department. There has not been time in preparing the copies of the correspondence for this mail to translate the accompaniments to inclosures Nos. 5 and 9, which are in German. I shall inform Mr. Honey that I have submitted the whole correspondence in this case to the Department.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure 5 in No. 595.]

Mr. Mueller to Mr. Coleman.

[Extract.]

CONSULATE-GENERAL OF THE UNITED STATES,
Frankfort-on-the-Main, February 25, 1887.

SIR: I beg to say that I am well acquainted with Mrs. Honey, and that she has consulted me some weeks ago about the tax question; and upon the views expressed to her by me she felt satisfied that nothing was to fear on that account during the first year of her stay in Frankfort. No demand for the listment or payment of taxes has been made upon her, and it is not likely that the attempt will be made to exact income or other taxes from her before expiration of one year at least. The rule has been generally practiced by the fiscal authorities in Frankfort and southern German States that taxation of foreigners should begin after a residence of one year, and whenever efforts to the contrary have been made within my jurisdiction I have always succeeded to check and counteract them.

In the case of Mrs. Honey I am inclined to hold that she can not be held to pay taxes even after the lapse of one year. Her husband's home in Rhode Island is her legal domicile, and her residence here is a mere temporary and transitory one, conferring no right upon fiscal authorities to subject her to the payment of income taxes. Other arguments are that no income-tax law prevails in the United States, and that Mrs. Honey has no income. The money expended by her is her husband's money, and constitutes a part of his and not of her income.

You may be assured that I shall protect Mrs. Honey against any and all encroachments upon her rights as an American citizen.

I am, etc.,

JACOB MUELLER,
Consul-General.

[Inclosure 9 in No. 595.]

Mr. Mueller to Mr. Pendleton.

CONSULATE-GENERAL OF THE UNITED STATES,
Frankfort-on-the-Main, January 30, 1888.

SIR: I have the honor to submit to your consideration a letter just received from Mrs. Honey, dated this day.

The tax matter, referred to by Mrs. Honey in her letter, has occupied my attention for some time. The local tax-assessing officials at first intended to levy an income tax against Mrs. Honey, upon the ground that *she* had lived in Frankfort *more than a year*, and after I had demonstrated to them that under the income-tax law a married woman, native or foreign, could not be taxed, they, in admitting that fact, turned around and levied an income tax against Mr. Honey, although he, as conceded, has never resided in Germany. Against this levy, preposterous as it seems to me, I availed myself, in the name of Mr. Honey, of the remedy provided for in the tax law by filing a remonstrance with the "Einkommensteuer-Einschätzungs-Kommission," and upon their decision of December, adverse to Mr. Honey's protest, I, in the name of Mr. Honey, addressed a "remonstrance" to the "Bezirks-Commission" on January 14 last, but have failed as yet to obtain a decision thereon.

It was my purpose first to exhaust the remedies under the income-tax law, before I should lay the case before you, but Mrs. Honey has become exceedingly irritated and excited by the tribulation and intrusions of the tax collector that I felt in duty bound to accede to her request, and to respectfully ask for your advice and assistance.

To show the disposition of these tax-collecting officials toward Mrs. Honey, it will be sufficient to refer to the fact that said officials entered, as I think unwarrantably, rooms occupied by Mrs. Honey and her daughter, and then and there made a levy upon the furniture owned by the house mistress and only in use and possession of Mrs. Honey as tenant thereof.

The inclosed copies of my correspondence* with the proper fiscal authorities and the answer of the Einschätzungs Commission of December 21 last, show distinctly that the proper authorities had distinct knowledge of the fact that a reclamation was pending and that Mr. Honey, against whom the tax execution was issued, was an American citizen and an actual resident of Rhode Island, and not of Frankfort, and that neither Mrs. Honey nor her personal property could under any circumstances be made liable to the payment of an alleged tax debt of her husband.

In conclusion, dear sir, permit me to say that Mr. Honey, attorney at law and lieutenant-governor of Rhode Island, when he was here on a visit last summer, made it his special request that any attempt to levy an income tax against him or his wife should be resisted for financial reasons as well as on account of the great principle involved.

Awaiting your advice in the matter, I have, etc.,

JACOB MUELLER,
Consul-General.

[Inclosure 10 in No. 395.]

Mr. Coleman to Mr. Mueller.

[Extract.]

No. 2707.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, January 31, 1888.

SIR: Replying to your letter of the 30th instant, relating to the income tax assessed by the Frankfort authorities against the supplies of money transmitted by Mr. Samuel R. Honey to his wife for the maintenance of herself and daughter in that city, after a period of residence there exceeding one year, the legation informs you as follows:

You are quite right in adopting the remedies against supposed improper assessment provided by German law, and they should be *exhausted* if necessary, in order that it may be definitely ascertained what the latter, as applied to the particular case is.

This legation has been heretofore informed by the Department of State, in an instruction relating to the liability to taxation of Americans in Germany, that "as a general rule the power to impose taxes is an attribute of sovereignty, and when the person or the property in question is a proper subject of taxation, the species of tax and the amount which should be collected may fairly be left to the state or government exercising this power."

I remain, etc.,

C. COLEMAN.

P. S.—We beg to add, that as the laws regarding taxation in this country are understood at this legation, a protest against an assessment does not suffice to arrest

* Not printed herewith.

proceedings for the collection of the tax imposed, but that the collected tax is refunded when the party protesting is successful on appeal.

In regard to the seal attached by the authorities to the sofa belonging to Mrs. Honey's landlady, it seems clear that the same must be removed, if this has not already taken place, upon the demand of the latter.

C. C.

[Inclosure 11 in No. 595.]

Mr. Coleman to Mr. Mueller.

No. 2709.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, February 1, 1888.

SIR: Following up my letter of yesterday the minister desires me to say to you again that in his opinion you have taken the proper view of this tax question as regards Mr. and Mrs. Honey, viz, that the question is purely one of Prussian law; that if by Prussian law either Mr. or Mrs. Honey is liable to assessment for income tax, and the property of either coming within the Prussian jurisdiction may be seized for the satisfaction of the tax, there does not thus far appear to be any valid objection to such law as a breach of international law.

You seem also to have presented with force and cogency your view of the proper interpretation of the income-tax law.

The minister would advise that the case should be presented to the legal tribunals in the most effective manner, by very competent attorneys, in order that the true interpretation may in the last resort be judicially and finally determined. Then if a case shall be made proper for diplomatic intervention, the Department of State at Washington will doubtless instruct this legation to take such course as to it shall seem best.

If Mrs. Honey has no ownership or other legal interest in the furniture already seized or proposed to be seized, it would seem that an intervention on behalf of the real owner not charged to be implicated in the tax claim would surely be effective for its release. It can scarcely be the desire of this Government to attach or jeopard the property of a person in nowise liable to the tax.

The whole subject of income taxation was maturely considered and acted on by the Government of the United States during the years of the war, and precedents for the taxation of non-residents and aliens, and levies on property or moneys within the jurisdiction may be found.

I trust most sincerely that your view of the meaning of the law may be sustained by the judicial tribunals and the case in this way satisfactorily adjusted.

Your obedient servant,

CHAPMAN COLEMAN.

[Inclosure 12 in No. 595.]

Mr. Honey to Mr. Pendleton.

[Telegram.]

FEBRUARY 1, 1888.

Frankfort officials seizing wife's furniture for taxes. Please protect her pending investigation.

HONEY,
Lieutenant-Governor.

[Inclosure 13 in No. 595.]

Mr. Pendleton to Mr. Honey.

F. O. 2710.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, February 1, 1888.

MY DEAR SIR: I have received your telegram of the date of yesterday. I had already had some correspondence with the consul-general at Frankfort-on-the-Main on the subject, and to-day sent him an additional letter, of which I take the liberty to inclose a copy. Obviously the first thing necessary is to have an authoritative in-

terpretation of the income-tax law of Prussia, and afterwards to determine whether the law so interpreted is in conflict with the international law. If it shall appear to be so, the Department of State will doubtless instruct me.

The effect of a protest or reclamation here, as in most other countries, I imagine, is not to stop the enforcement of the law as the officials understand it, but to lay the foundation for a reversal or revision of their decision and the refunding of the money, if it shall appear that too large a sum has been paid.

I notice you speak of the furniture attached as being that of your wife, whilst in the statement of Mr. Mueller it is constantly spoken of as being not her's, but her landlady's.

You may rest assured that I will with great pleasure do whatever I can to secure justice to Mrs. Honey.

Consul-General Mueller appears to have been very prompt and intelligent in presenting Mrs. Honey's case.

I am, etc.,

GEO. H. PENDLETON.

No. 453.

Mr. Bayard to Mr. Pendleton.

No. 300.] DEPARTMENT OF STATE,
Washington, March 30, 1888.

SIR: I inclose herewith a copy of a dispatch from the United States consul-general at Apia of the 24th of February last, in relation to the seizure by the German consul of the pilot-house there, which is built on land the right to the possession of which is in a citizen of the United States, named William Coe.

It appears that the land was leased to Coe by Chief Patiole, on August 6, 1884, for a period of fifteen years. The title to the land had previously been recognized by the municipal government to be in Patiole, and after the making of the lease referred to, the then municipal board treated Coe as the rightful possessor and paid rent to him for the use of the land as a site for the pilot station. It further appears that subsequently, on the 19th of March, 1885, Coe received a regular deed of the property from Patiole.

These facts are undisputed and seem to make the title of Mr. Coe clear and incontestable. It appears, however, that the German consul, Mr. Becker, not being able to obtain a satisfactory lease of the pilot-house from Coe to the Tamasese Government, in place of the lease that Coe had made to the late municipal government, has taken possession of the premises and set up a title to them in the German company, of which Mr. Weber is the head. The only basis for this pretended title is a general mortgage on Patiole's land (of which he had considerable in addition to that now in controversy) given by him to the German company in February, 1885, to run for three years. Such a lien clearly ought not to be made the basis of a denial of Mr. Coe's prior title to the possession of the land, a title to which has been undisputed and which the German consul, far from questioning, expressly acknowledged until he suddenly took possession of the property. Admitting what is by no means clear, that the general mortgage, which was subsequent to the lease, applied, or was understood to apply, to the land in the possession of Mr. Coe, such a lien could form no justification for the action of the German consul in dispossessing Mr. Coe, whose prior title and possession, derived from the person who afterwards made a mortgage to the German company, could not be affected by such a transaction.

As a fact, it is doubtful whether the mortgage ever applied in any sense to the land in the possession of Mr. Coe, and this doubt is confirmed by the circumstance that when Chief Patiole died in January last, and the German company gave notice of its claim by posting placards on his lands, none was given in reference to the pilot-house property, and Mr. Coe's title was unchallenged.

You are instructed to bring this case at once to the attention of the Imperial Government and to endeavor to obtain a speedy settlement of the difficulty created by the German consul's action.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 300.]

Mr. Sewall to Mr. Rives.

No. 93.] CONSULATE-GENERAL OF THE UNITED STATES,
Apia, Samoa, February 24, 1888.

SIR: Referring to my dispatch numbered 91, dated February 1, I have the honor to inclose copies of further correspondence* with the German consul relative to the pilot station, and to report as follows:

After my letters to Mr. Becker of January 31 and February 1, it was brought to my attention by the legal representative of Mr. Coe that among certain properties deeded to me by Coe on the 27th of December last, pending the settlement of matters in dispute between him and Messrs. McArthur & Co., then about to be submitted to arbitration, was the land in question. I was also informed that Mr. Coe claimed the house as part of the freehold, the municipality having expired without assigning, and further, that the Tamasese Government intended to remove the house shortly.

Accordingly, for the protection of the property, I addressed a letter to Mr. Becker, February 13, declining the propositions made by him on behalf of the Samoan Government in his letter of January 31, and requesting him to notify the occupant to quit.

On the same day Mr. Becker replied that the "Samoan Government" had vacated the premises, and that, as the representative of the Germans, in the name of the Imperial German Government, he had taken possession of the house and installed therein his consular clerk.

The house was now sealed with the seal of the German consulate.

On the 14th I replied to Mr. Becker, stating the American claim and denying his right to the possession of the house, either his former position on the municipal board or any assumed preponderance of German interests—the reasons given in his letter.

On the same day Mr. Becker informed me that the German firm had taken possession of the land, under a mortgage made by the chief Patiole and registered in the German consulate on the 19th of February, 1885.

The deed to Coe, deposited with me, is dated the 19th of March, 1885, and registered at this office the 16th of September following. It is made by the chief Poomalatai. A declaration by Patiole, made the 2d of October, 1885, that Poomalatai had a right to sell the land, accompanies this.

But the title of Coe, upon which the municipal board relied when making the lease, is a lease from Patiole to Coe for fifteen years, dated August 16, 1884, and recorded at this office the 18th of September following. The lease to the municipality was executed on its behalf by the members of the municipal board after a careful investigation of the title of Mr. Coe, and after a declaration by Patiole before the municipal magistrate that Mr. Coe had the right to make the lease.

On the 16th of February I wrote Mr. Becker setting forth these facts, and adding that, inasmuch as the lease to the municipality contained a covenant by the members of the municipal board that the land should be quickly and peaceably surrendered to Mr. Coe, good faith demanded that this be done.

On the same day Mr. Becker replied. Not denying the title set up by me, he stated that he was not authorized to make the German firm quit the land; that the question was a legal one, which, after arrangements between the Governments, might be decided by arbitration.

As to the house, he suggested that the decision of the Governments be awaited.

With my acknowledgment of the receipt of this letter, the correspondence closed.

For some days a keeper had charge of the premises, which were later guarded by German marines from the war ships *Olga* and *Adler*, who have now been withdrawn.

* Inclosures omitted.

The danger to American interests here by the German land claims which are being pushed in every direction, I pointed out in my dispatch numbered 35, dated October 8, 1887, in which I reported the seizure of Mr. Moors' land by Mr. Weber.

The case of the pilot station makes the danger the more apparent, because in this instance the German action had the official countenance of the German consul, if indeed it was not conducted under his direction.

The American title to the land has the comprobation of the municipal board, and was not disputed by Mr. Becker himself until, two weeks after our correspondence had begun, I informed him that the removal of the house could not be allowed.

I respectfully submit that the possession of this property by German subjects, secured as it was through the instrumentality of the German consul, and maintained by force, presents the most important issue yet arisen here, which, if not met promptly and effectively, will be the cause of humiliation to our citizens and of discouragement to all American interests in Samoa.

I have, etc.,

HAROLD MARSH SEWALL,
Consul-General.

No. 454.

Mr. Pendleton to Mr. Bayard.

No. 597.] LEGATION OF THE UNITED STATES,
Berlin, April 2, 1888. (Received April 16.)

SIR: I inclose herewith clippings and translations from the National Zeitung of the 28th ultimo. They are the only response which I have seen in the Berlin papers to the public telegram touching the message of the President to Congress recommending legislative measures in regard to the exclusion of swine's meat and the preparations thereof exported from Germany and France.

I have, etc.,

GEO. H. PENDLETON.

[Inclosure 1 in No. 597.—National Zeitung, March 28, 1888, morning edition.]

In a pressing manner the police presidency warns against the use of uncooked swine flesh, and points out that only a thorough cooking (roasting through and through) of the pieces of swine flesh, as of the several preparations of swine meat (meat, blood and liver sausages, dumpling, pickled meat, etc.) suffices to kill the possible existing trichina and to exclude every injury to the health.

In order to make the thorough cooking or roasting of large thick pieces (hams or neck joints) possible, it is recommended to make deep incisions, about 8 centimeters apart, in the pieces of meat, in order that in this wise the boiling heat may sufficiently have effect upon the deep-lying layers of flesh.

[Inclosure 2 in No. 597—National Zeitung, March 28, 1888, evening edition.]

It is telegraphed from Washington on the 27th March:

President Cleveland has sent a message to Congress, in which legislative measures are recommended for the prevention of the importation of swine and products of swine from France and Germany, inasmuch as, according to reports of the American envoy in Berlin and the American consul at Marseilles, a disease prevails among the swine in these countries which makes the use of swine's meat unhealthy.

In Germany it is not known that the danger from trichina—and this alone can be intended—has increased lately. On the contrary, the microscopic examination for trichina increases more and more. One can see that the proposal of President Cleveland has rather to do with the establishment of reprisals against the prohibition of American products of swine-breeding than with a sanitary regulation. So far as German prohibition is concerned, whilst in the beginning in America it was referred

to the protective tariff-system tendencies, with time even these judges have come to admit that the manner of slaughtering in America for exportation has offered good grounds for it. Even in the technical works of Germany, concerning the agricultural competition of North America, a while ago mentioned by us, there are descriptions of that slaughtering, which support the supposition that, with this wholesale business, sick or dead swine are worked off for food. By the abolition of this evil the Americans will sooner effect the removal of the German prohibition than by the threats of reprisals. The German exportation to America consists mainly in the finer kind of sausages, and in their manufacture in Germany the greatest care is taken.

No. 455.

Mr. Bayard to Mr. Pendleton.

No. 303.] DEPARTMENT OF STATE,
Washington, April 6, 1888.

SIR: Your dispatch No. 585, of the 22d of February last, reporting your action in declining to issue a passport to Mr. Frank Kessel, upon the ground of a discrepancy between his certificate of naturalization and his passport, was duly received.

A copy of your dispatch was communicated to the probate judge of Montgomery County, who has furnished a corrected certificate, with the statement that the clerical error in the paper furnished to Mr. Kessel was caused by the accidental use of a wrong form of certificate.

Inclosing the amended certificate of naturalization for the files of your legation,

I am, etc.,

T. F. BAYARD.

No. 456.

Mr. Bayard to Mr. Pendleton.

No. 305.] DEPARTMENT OF STATE,
Washington, April 6, 1888.

SIR: Your No. 595, submitting the correspondence between your legation and the consul-general at Frankfort-on-the-Main, and with Mr. Samuel R. Honey, of Rhode Island, in reference to the income-tax levied upon Mr. Honey's wife, who is temporarily residing with her daughter at Frankfort-on-the-Main, is received.

The matter had already been brought to the attention of the Department by Mr. Honey himself in a letter dated the 14th of March, 1887, a copy of which, with my reply to the same, is herewith inclosed.

As your course and your advice to Mr. Honey, which are entirely approved, coincide with what was written to him from this Department on the 21st of March of last year, and as Mr. Honey has not again addressed the Department on the subject, there seems to be nothing more to be done now than to await the decision of the courts in case Mr. Honey decides to appeal to them.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 305.]

Mr. Honey to Mr. Bayard.

NEWPORT, R. I., *March* 14, 1887.

SIR: I am a resident and domiciled inhabitant of this city and a practicing lawyer here. My wife and daughter are temporarily residing in the city of Frankfort-on-the-Main, in Germany, where they expect to remain, perhaps, for two years. My wife has no income or estate of any kind, and all the money she spends is derived from me, and is almost exclusively the proceeds of my professional income.

I am informed that the authorities of the city of Frankfort propose to assess her for a personal property tax. May I ask you to do me the favor of informing me whether or not I am bound to pay such a tax? My wife has no property with her except necessary clothing, and is living in a furnished apartment, which she rents by the month.

I am, sir, very respectfully, yours,

SAM'L R. HONEY.

[Inclosure 2 in No. 305.]

Mr. Bayard to Mr. Honey.

DEPARTMENT OF STATE,
Washington, March 21, 1887.

SIR: Your letter of the 14th instant, in regard to the proposal of the city authorities of Frankfort, Germany, to assess your wife, who is temporarily residing there, for a personal property tax, has been received.

Your wife, being resident in Germany, is subject from the nature of things to any laws which the Government of Germany may impose as to taxes. If such impositions appear to you to be unjust, the proper course is to pay the amount under protest, taking care that the character of such payment should be so evidenced as to make it the subject of subsequent action.

If the enforcement of payment should appear to you to be in violation of international law, you can then present the facts in detail to this Department, which will then consider whether the case is one which will sustain an appeal to the German Government for redress.

I am, sir, your obedient servant,

T. F. BAYARD.

No. 457.

Mr. Bayard to Mr. Pendleton.

No. 315.] DEPARTMENT OF STATE,
Washington, April 28, 1888.

SIR: Inclosed herewith is a copy of a report on the claim of Albert Bernhard against the Imperial German Government for arrest and imprisonment at Mülhausen, in Alsace, in 1887, on a charge of participation in a seditious conspiracy. This report has received my approval and is transmitted to you to be filed in the legation.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 315.]

Claim of Albert Bernhard against the Imperial German Government for arrest and imprisonment at Mülhausen, in Alsace and Lorraine, for participation in a seditious conspiracy.

APRIL 19, 1888.

It appears by the documents in possession of the Department that Bernhard was born at Mülhausen, in Alsace, September 28, 1845. His father was a wine merchant.

In May, 1872, being then nearly twenty-seven years of age, Bernhard left his native

country and came to the United States, landing in New York. He remained there for three days, and then went to Omaha, where he was employed as a book-keeper until December, 1872, when, in consequence, as it is alleged, of ill health, he removed to Saint Louis, in which city he obtained a position as salesman on the 1st of April, 1873.

On the 23d of October, 1878, he was admitted as a citizen of the United States in the circuit court of Saint Louis.

In August, 1880, he returned to Mülhausen, his native place.

A question has been raised in correspondence as to whether Bernhard originally left Alsace with an intention to expatriate himself. In a statement made on April 30, 1887, before the Imperial prosecutor at Mülhausen, he said he "ausgewandert" to America in 1872; and it has been suggested that that term signifies temporary absence and not emigration with a view to a permanent settlement in a foreign country. This interpretation of the word does not appear to be sustained; but, however this may be, it is not necessary to resort to such an inquiry.

Whatever may have been the view with which he left his home, we may concede for the purposes of this case that he left with an intention permanently to settle abroad.

As has already been stated, Bernhard returned to Mülhausen, his native place, in August, 1880. On the 13th of February, 1887, he was arrested on a charge of seditious conspiracy for alleged membership in, or connection with, an organization called the "Ligue des Patriotes," and was detained till the 27th of the same month, in all, fourteen days. Other persons were arrested at or about the same time on the same charge.

In a letter to the Department bearing date the 8th of September last, Mr. Philip J. Joachimsen, of 45 William street, New York City, Bernhard's attorney, referring to the organization in question, says:

"The circumstances of this case as developed on the trial of Koechlin and others with whom Mr. Bernhard was in the commencement jointly proceeded against, developed that a turn, fencing, and rifle society has been formed in Alsace-Lorraine. Such societies are *prima facie* lawful. This society sent out circulars and solicited members. This proceeding was lawful. It was not prohibited. It was permitted to exist without objection until recently when it became 'suspect' that in case of war between France and Germany, in the opinion of the witness, such organization might become dangerous to Germany."

It appears by the proceedings in the prosecution referred to, of Koechlin and others in June, 1887, that the "*prima facie* lawful" society above referred to was the "Ligue des Patriotes" already adverted to.

In a letter dated the 29th of September last, Mr. Joachimsen transmitted to the Department a copy of an extract from "Le Drapeau," the official organ of the "Ligue des Patriotes," a copy of which extract, which was a circular of the "Ligue," was found in Bernhard's house when it was searched. In the same letter Mr. Joachimsen, in order to prove that Bernhard did not belong to the "Ligue des Patriotes," sends a copy of the statutes of the society in which it is provided that the organization shall be composed exclusively of Frenchmen.

Remembering that in his argument of the 8th of September last, Mr. Joachimsen contends for the legality of the society which he says "sent out circulars and solicited members," it is remarkable to find in the secret statutes referred to and inclosed with his letter of the 29th of September last, the explicit statement in the second article of the code that the object of the "Ligue" is the restoration of Alsace-Lorraine to France, and that for that purpose military and gymnastic exercises are to be cultivated by the organization. It is needless to say that the papers circulated in Alsace-Lorraine, and of which a copy was found in Mr. Bernhard's house, contained no declaration of the true object of the "Ligue." But it is clear beyond question that the suspicions of the German authorities as to the real character and purpose of the society were well founded.

This disposes of the allegation of Bernhard's counsel in his argument of the 8th of September last that the prosecution of the persons suspected of connection with the "Ligue" was a proceeding against persons for pursuing an innocent object. It is possible that a person may have been brought into the "Ligue" without at first knowing its real purpose, but that the organization was pursuing a treasonable end is indisputable.

This brings us to a consideration of the proceedings themselves and to the question of their regularity and legality.

On this point it clearly appears by the statement of the imperial German Government as well as by copies of records which have been furnished to this Department that the proceedings against Bernhard and others for alleged complicity in the unlawful and treasonable designs of the "Ligue des Patriotes" were conducted under the supervision of the supreme court of the Empire at Leipsic, and in strict conformity with the German law.

It is a settled and necessary rule of international law that in countries where there

is an organized administration of justice from which foreigners are not exempted, they as well as citizens are amenable to the law, and the government of the country is not to be held liable as for a tort for criminal prosecutions undertaken by the authorities *bana fide* under the law, although the proceedings may not result in the conviction of the persons accused. It would be impossible to administer criminal justice if any other rule prevailed; at least it would be impossible as to foreigners, who, if the rule were otherwise, would enjoy practical immunity from criminal actions. In the United States, as well as in other countries, criminal proceedings are set aside every day for some irregularity and the defendant either discharged or remanded for a new trial, which may result in his conviction or acquittal. It can not be supposed that such an irregularity would form ground for an appeal to diplomatic intervention. Hence, when it is shown that criminal proceedings were instituted by competent authority pursuant to law, they are presumed to be regular and valid and do not afford a basis for a diplomatic claim. In Bernhard's case, however, it does not appear that there was even an irregularity in the prosecution.

But Bernhard's counsel contends that his client was "treated with great rigor; denied access to his family; his correspondence interrupted," etc. All this may be true, and it is understood that such methods of procedure are authorized by the German law and are commonly resorted to. But it does not belong to the United States either to prescribe or criticise the ordinary judicial and administrative procedure of foreign countries. On the contrary, no government would contend more strenuously than that of the United States for the amenability of foreigners to the local law; Mr. Bernhard went to Alsace of his own free will; he elected to make it his place of residence; he was not going to a strange country but was returning to his former home and to his family. Having thus voluntarily placed himself within the jurisdiction of German law, he can not complain that when he was arrested on a criminal charge he was secluded from his family and his mails interrupted and inspected, such methods of procedure being authorized by that law.

There is, however, another feature of Mr. Bernhard's case to be considered. In an instruction to Mr. Pendleton, dated the 27th of June last, the Department, referring to that case, said:

"There is, however, a serious obstacle, not heretofore noticed, to the intervention of the Department on his behalf. If a naturalized citizen of the United States of his own free will leaves his adopted country and returns to his native land, settles himself in business there in his own right and not merely as the agent for an American house, withdraws himself from all the duties of citizenship in his adopted country and voluntarily resides abroad, as a matter of choice, for such a period as reasonably leads to the inference of the *animus manendi*, which constitutes domicil, then he renounces his right to call on the United States to protect him against the government under whose control he had so chosen to place himself.

"In the case before us Mr. Bernhard returned in 1880 (and in less than two years after he had acquired American citizenship) to his native home at Mülhausen, where he regularly entered into business and established himself with every customary surrounding proof of an intention there to remain, in which no change is yet apparent, or if any intention to remove therefrom appears, it is to settle in France, and not in the United States."

After this was written the Department was furnished by Bernhard's counsel with various papers which accompany his argument of the 8th of September, to which reference has already been made.

Among these papers are some letters which throw strong light on the animus with which Bernhard returned to Alsace.

It is to be observed that although he returned to his native country in 1880, there is no evidence of any subsequent assertion by him of his American citizenship till the 8th of March, 1887, when, after his arrest and discharge as above detailed, he obtained from the United States consul at Kehl a blank form of application for a passport, which he duly filled up, alleging that he intended to return to the United States in eighteen months. This was done nine days after his release.

The application was forwarded to the legation at Berlin and a passport issued. No investigation of the case was made, nor was the legation, as Mr. Pendleton states in his No. 486 of the 28th of July, 1887, informed either by Bernhard or by the consul of the actual circumstances of the case until the passport had been issued and was in Bernhard's hands, and a claim against the German Government had been lodged by him with the legation, so that its action in issuing the passport in no sense involved or implied a judgment upon the facts now disclosed.

The first of the letters above referred to bears date October 7, 1878, and was written in reply to a letter of his brother entreating him to return to Alsace. In his letter Bernhard says:

"For nearly two years they have been constantly talking to me of a return to Alsace. * * * You have not forgotten my various letters, in which I gave a plain statement of the conditions on which I would return home; well, what have you

done? I have generally received the answer, that everything would be arranged at the proper time to my entire satisfaction! I always supposed, from your formal declarations, that our dear father was perfectly willing; in the first place, in October, 1877, that as soon as the business of the old firm should be settled up, I was to return as partner. Well, in January, 1878, a change took place; our dear Emilie got married, and a stranger took the place that was intended for me, or rather that rightfully belonged to me. When the new articles of partnership were drawn up, a special clause, it is said, designated me as a special attorney (mandataire) in case of the illness or death of our dear father. I long doubted this, but in view of your many earnest declarations, I finally believed it. At length came your famous letter of July 29, which told me that I should receive by the next mail: (1) A contract or agreement signed by our dear father; (2) An extract from the new articles of partnership, in which my name was to appear as an attorney (mandataire).

"After so many letters, and so much expectation, anxiety, annoyance, and trouble in my business, what happened?

"I received your letter of August 29, which summarily announced to me that the whole thing was broken up, and that our honored father, in a moment of anger, had ignominiously driven me from his presence!!!

"At last I received your letter of September 11; everything was then changed; the storm had been of short duration; however, another kind of tactics was then announced; I was attacked; yes, I was reproached with my lack of readiness to return home when summoned by you! I was even told that it was no evidence of filial love on my part to remain where I was without having sufficient affection to return, in a disinterested manner, to comfort my aged father.

"And yet it would have been so easy to change all that why did you not keep your promise?

"Do you think that I would ever have accepted your offers, and that I would have agreed to return if you had at the outset plainly given me to understand that I was to return unconditionally and act according to the good pleasure of our dear father? I can certainly say that no correspondence on this subject would then have passed between us.

"I know what business is and this return is a matter in which considerations of filial love must be set aside; for thus far I have not seen that you propose to supply the funds for this journey; consequently the question to be discussed is simply one of interest.

"I have not forgotten my former homeward journeys, particularly that made in July, 1867, when I gave up a good situation in Paris, on the strength of the promises that you made that I should have employment at home; what came of it? In two months I was obliged to return to the place which I had left. Why did you not then keep me at home?

"But I must be brief, for there is no need of any longer discussion. If I require guaranties, it is because I desire to protect not only my interests, but my future and that of my children. What will be the consequence if I return home disinterestedly without any guaranties?

"Our father, who is violent at times, will make a great fuss about nothing, and will drive me away, as he has already done several times. What shall I have after that?

"At my age one can no longer be content to be treated like a boy. I have lived too independent a life in America ever to be willing to put my neck in the yoke again.

"What would the filial love that you talk about have to do in such a case? Our father might long ago have acted differently with his sons, but he did not do so. Why? Probably because he did not see that he could directly advance his own interest by doing so.

"He says somewhere that he is trying to make a man of me; all right; I have never tried to do as much for him; he would not accept it.

"It is not, moreover, my business to manage his affairs; that is his business. If I came it would be only as an assistant. He need not fear, therefore, that I desire to become better acquainted with his affairs than he is himself.

"Now, my dear Emile, you do not do right. Every time that there is a difficulty between us you rudely demand your money of me. Let us see; shall I not be free, in the face of my father's selfishness, to act as I please in regard to marriage? He cares a vast deal for my children. Why do you say that I will 'fly' to my aunt in Paris rather than to you? I shall require exactly the same guaranties before making another move. Business is business; that is all I know.

"I have often repeated this proverb to you, 'A burnt child dreads the fire.'"

This correspondence reveals in the first place that the cause of Bernhard's leaving his home and coming to the United States was the difficulty he found in maintaining amicable relations with his father; and that his only objection to returning home was his uncertainty as to his ability to make such arrangement with his father as would secure satisfactory and permanent business relations. In the second place, it

appears that during the time intervening between his declaration of intention and his naturalization he was engaged in correspondence with his family in regard to the abandonment of his residence in the United States and a return to Alsace. The refusal of Bernhard to return to Alsace unless he could settle himself permanently in business is clearly declared. The letter above quoted was written shortly before his naturalization and shows that long anterior to that time he had been discussing terms with his father under which he could abandon his American residence and, returning to Mülhausen, become a member of the wine firm.

In a letter of the 29th of July, 1878, Bernhard's brother Emile says:

"From all these considerations (*i. e.*, being made a partner, given a home, and being put in a position to marry again, etc.), we must conclude that a brilliant future lies before you in Alsace," etc.

From this correspondence no other idea is derivable than that the return of Bernhard to Alsace was *animo manendi*.

By the treaty of naturalization with Germany, as well as by various other treaties, it is provided that a renewed residence of two years in the country of origin shall be treated as *prima facie* evidence of an intention permanently to remain, and consequently of a renunciation of acquired citizenship. Bernhard, when arrested, had maintained a continuous residence of seven years at the place of his origin, to which he returned in less than two years after the date of his naturalization in the United States. There is no evidence whatever that he entertained at any time during these seven years any intention to return to the United States, or even that he entertains such an intention now. Indeed, it appears that he has sought employment in Paris, in the land of his original nationality.

On the whole, the case does not appear to be one in which the Department would be justified in intervening.

Respectfully submitted.

J. B. MOORE,
Third Assistant Secretary.

Approved by the Secretary of State April 21, 1888.

No. 458.

Mr. Coleman to Mr. Bayard.

[Extract.]

No. 622.] LEGATION OF THE UNITED STATES,
Berlin, June 1, 1888. (Received June 18.)

SIR: I have to-day sent you a telegram to the effect that from this date passports bearing the visa of the German embassy at Paris will be required of all foreigners entering Alsace-Lorraine from France.

The decree upon which the foregoing telegram is based, and which is inclosed herewith in its official form, together with a translation, was promulgated by the Alsace-Lorraine authorities on the 22d ultimo, to take effect from to-day. Strenuous efforts have been made in the interval in various quarters to secure the repeal or modification of this measure, but in vain.

On calling yesterday at the foreign office to secure a copy of the official publication of the decree, I was informed that it would certainly be upheld, but that the visa of the German embassy at Paris would be furnished to all foreigners other than Frenchmen applying for the same at once and without question upon the payment of a fee of 10 marks. To Frenchmen the visa would, however, not be given until after correspondence between the German embassy and Alsace-Lorraine authorities.

This information, thus officially authenticated, I at once conveyed to our legation at Paris. I have been told that the object of the measure in question was to discourage and restrict intercourse between the French and the inhabitants of Alsace-Lorraine. This is corroborative of state-

ments contained in an article published on the 29th ultimo, in the Norddeutsche Allgemeine Zeitung, a journal generally understood to be inspired by the chancellor of the Empire with respect to questions of political importance discussed in its columns. A copy, with translation, of this interesting article, pronounced in German press comments to be amazingly frank in its declarations, is herewith inclosed.

I also transmit herewith a cutting,* taken from the same number of the above-mentioned journal, which contains the new rules governing the sojourn of Frenchmen in Alsace-Lorraine, as prescribed by the authorities of that territory, under date of the 23d ultimo. While these rules do not directly affect American citizens, they may, in connection with the subject of this dispatch, nevertheless be found useful for reference on the files of the Department.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure 1 in No. 622.—Translation.—Central and District Gazette for Alsace-Lorraine.]

Decree requiring foreigners entering Alsace-Lorraine from France to produce passports.

Upon the basis of the law of October 2, 1795 (10 Vendémiaire of the year IV), and of October 19, 1797 (28 Vendémiaire of the year VI), as well as of the ordinance of April 20, 1814, the following is hereby decreed:

I. From Thursday, May 31, 1888, all foreigners crossing the French frontier, regardless of the distinction of their journey being in the nature of a transit or for the purpose of sojourn in the country, must be in possession of a passport provided with the visa of the German embassy at Paris. The visa must not be more than a year old.

Cards showing the avocation of foreign commercial travelers (proclamation of the Imperial chancellor of October 31, 1883, Central Gazette for the German Empire, page 305) do not replace the necessary passport.

Foreigners not in possession of a regular passport are to be prevented from continuing their journey, and in case of necessity to be conducted across the frontier.

German subjects crossing the French frontier do not require a passport.

II. From the requirement of having a passport are excepted the inhabitants of the French frontier communities, in so far as they may be repairing for business purposes to a neighboring German frontier community, and satisfy the frontier police officials that such is the case.

Strassburg, May 22, 1888, ministry for Alsace-Lorraine, Department of the Interior. The Under Secretary of State.

STUDT.

Inclosure 2 in No. 622.—Extract from Norddeutsche Allgemeine Zeitung of May 29, 1888.—Translation.]

An incorrect significance would be attributed to the German passport measures at the French frontier if they were regarded as reprisals on account of particular occurrences such as those at Avricourt or at Belfort. Those and many other similar ones have no immediate significance in connection with the measures of the German Government, but have importance only indirectly as symptoms of the situation. The passport measures, like those adopted to strengthen our defensive power, have no relation to particular events but constitute a result of our collective policy. German policy and the administration of the Reichslande (Alsace-Lorraine) in particular must necessarily aim to consolidate the re-acquisition of Alsace by vivifying and strengthening the relations of that country with Germany. A principal obstacle in the way of the solution of this task consists in the continuance of the social and economic relations with France which naturally existed when the reunion with Germany took place. The effect of this condition of affairs is essentially increased and attains to international acuteness in consequence of the excitations and baitings resulting from anti-German sentiment and the preparations for the war of revenge, for the re-acquisition of Alsace by means of espionage and agitation among the inhabitants of the country through associations and all sorts of other devices. As a consequence of these incitations, the hostile bearing of the French people towards us has not only remained

* Not printed herewith.

undiminished during the last seventeen years, but has become more acute, as the occurrences at Belfort demonstrate.

The hope that a French Government would ultimately find itself strong enough to oppose this course, which jeopardizes the peace of both nations, has not been verified. Even with peaceful intentions the French Government have heretofore found the means to strengthen themselves in promoting, rather than in soothing, the national hatred. The feeling of the French population in the provinces remains continuously at a height of hatred of us which does not permit Germans to show themselves anywhere in France without danger of life and limb, and the initiative of a few gamins, suffices to cause outbreaks of this dangerous feeling. Neither the reserve of German policy nor the accommodating spirit shown by it in great and small political questions has been able to produce a change in that feeling. In the wars of 1813–1815 France relatively sustained greater loss and was treated with greater violence than in that of 1870. Nevertheless, within a period of only ten years after the Treaty of Paris in 1825, the French annals will be searched in vain for a trace of similar hatred on the part of France of her neighbors, of similar lust for revenge for lost battles such as those of Leipsic and Waterloo, as is manifested to-day in the columns of all French papers, and in the demeanor of the population of the provinces of France. The futility of the reserve and caution hitherto observed by Germany with the attendant hopelessness of bringing about a change in French sentiment excites in Germany no warlike plans and feeling. We carry respect for the independence of our neighbors to the degree of complete toleration of even the most unjust hatred of us. We desire no war, *we desire only more remote relations* with France, and as we are tied to our vicinage we must content ourselves with becoming more reserved in our intercourse with France, and to restrict it more than heretofore on the frontier, where it is made use of to agitate the population of German Alsace. We wish that the French should be more moderate in their intercourse with Alsace, and shall feel no regret if France shall, in consequence, adopt measures tending in an analogous manner to restrict the visits to French territory of our German people. This course is free from enmity; we only employ permitted international means to promote the historic process of the regermanization of the German imperial lands and the dissolution of their connection with France. The international frictions made possible and furthered by the heretofore existing intercourse of the French with Alsace would in the long run be more dangerous to the maintenance of peace than a sharper emphasizing of the frontier and its separating effect could be. We therefore believe that the Imperial Government is serving the interests of peace when it meets France in the endeavor to closely control frontier intercourse and sets limits to its intimacy, thereby excluding as far as possible political frictions.

No. 459.

Mr. Bayard to Mr. Pendleton.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 15, 1888.

PENDLETON,
Minister, Berlin:

The President desires you to make expression through the foreign office of the respectful sympathy felt throughout the United States for the German nation in the loss of their Emperor, who has at last yielded to death with such lofty courage and calm resignation to the divine decree.

BAYARD.

No. 460.

Mr. Coleman to Mr. Bayard.

No. 628.] LEGATION OF THE UNITED STATES,
Berlin, June 18, 1888. (Received June 30.)

SIR: I have had the honor to transmit to you with my dispatch No. 627, of the 16th instant, the text of my telegram announcing the death

of His Majesty, the Emperor Frederick, and of your telegram conveying the sympathy of the President and people of the United States for the German nation.

I now transmit herewith a copy of my note, under date of the 16th instant, addressed to Count Bismarck, in execution of your telegraphic instructions, and a copy and translation of an answering note of the same date, in which the Imperial secretary of state informs me that—

He has not failed to communicate to His Majesty, the ruling Emperor, the warm words in which were clothed the sentiments of the President and his Government for the Imperial family and the German people.

The touching incidents connected with the last illness of the late Emperor, his gentleness, fortitude, patience, and his zealous, unwearying performance of his sovereign duties during the protracted period of his suffering from a terrible incurable disease, had greatly moved the hearts of his subjects, in whose affections he already held an exalted place; and his death has caused profound regret and sorrow throughout the entire Empire.

In accordance with the expressed wish of the late Emperor and the widowed Empress, his body was, at an early hour this morning, laid to rest with all practicable quietness and avoidance of ceremony, and with a restricted attendance on account of the limited space afforded by the place of interment in the "Friedens" church at Potsdam.

I inclose for the files of the Department a number of journalistic publications bearing upon the life and death of his late Majesty, Frederick.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure 1 in No. 628.]

Mr. Coleman to Count Bismarck.

F. O. No. 370.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, June 16, 1888.

The undersigned, chargé d'affaires *ad interim* of the United States of America, has the honor to state that he is instructed by the President of the United States to invoke the kind offices of his excellency Count von Bismarck-Schönhausen, Imperial secretary of state for foreign affairs, in conveying to His Majesty the Emperor and King the respectful sympathy felt throughout the United States for the Imperial family and the German nation in the loss of the late illustrious Emperor, who has at last yielded to death with such lofty courage and calm resignation to the divine decree.

The undersigned, while begging leave to express his sincere participation in this sentiment, avails., etc.,

CHAPMAN COLEMAN.

[Inclosure 2 in No. 628.—Translation.]

Count Bismarck to Mr. Coleman.

FOREIGN OFFICE, *Berlin, June* 16, 1888.

The undersigned has had the honor to receive the esteemed note of to-day, in which Mr. Coleman conveys the expression of the sympathy of the President of the United States and of the American people in the death of His Majesty the late Emperor Frederick.

The undersigned has not failed to communicate to His Majesty the ruling Emperor the warm words in which were clothed the sentiments of the President and his Government for the Imperial family and the German people.

While the undersigned at the same time permits himself to cordially thank the chargé d'affaires for the expression of his personal sentiments, he avails, etc.,

H. BISMARCK.

No. 461.

Mr. Bayard to Mr. Pendleton.

No. 329.] DEPARTMENT OF STATE,
Washington, June 19, 1888.

SIR: In the session of the 15th instant, and on motion of Mr. McCreary, of Kentucky, the House of Representatives agreed to a resolution expressing profound sorrow for the death of the Emperor Frederick III and sympathy with the German nation in the loss of their great and renowned ruler.

This resolution contained no request or direction as to its communication to the Government of Germany, but appeared simply as an expressive tribute to the memory of one whose heroic endurance and admirable bearing amid sufferings and in the very article of death has endeared his memory to the hearts of all men.

The German minister at this capital, Count von Arco-Valley, hastened to communicate the text of this resolution to his Government as soon as it was made public, and has since addressed me a note* requesting me to convey to the House of Representatives the thanks which His Majesty the Emperor has instructed him to express for this manifestation of regard. I have accordingly addressed the Speaker of the House communicating the desired message.

I transmit an engrossed copy of the resolution, which you may deliver to his excellency the Imperial minister for foreign affairs.

Expressing much gratification at the cordial response vouchsafed to this spontaneous tribute of the popular branch of the national legislature to the worth of the lamented sovereign,

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 329.]

RESOLUTION OF THE HOUSE OF REPRESENTATIVES.

[Fiftieth Congress, first session.]

JUNE 15, 1888.

Mr. McCreary, of Kentucky, submitted the following resolution; which was agreed to:

Resolved by the House of Representatives of the United States of America, That we have heard with profound sorrow of the death of the Emperor Frederick of Germany. He was distinguished as a soldier, having been made a field marshal for his conspicuous services in the Austro-Prussian and Franco-Prussian wars, and he was the friend and advocate of a conservative and liberal policy in Germany, and we express our respectful sympathy to the German nation in the loss of their great and renowned ruler.

Attest:

JNO. B. CLARK, *Clerk.*

No. 462.

Mr. Coleman to Mr. Bayard.

[Extract.]

No. 630.] LEGATION OF THE UNITED STATES,
Berlin, June 20, 1888. (Received July 9.)

SIR: The chief public acts which have marked the reign of the present Emperor and King William II, since his accession to the throne on

* For note of German minister of June 18, see Doc. No. 495, *post*, page 682.

the 15th instant, have been his three proclamations, the one addressed to the army, the second to the navy, the third to the German people, and the convoking in extraordinary session of the Reichstag and Landtag, the former to meet on the 25th, the latter on the 27th instant.

I inclose herewith copies with verified translations of the proclamations referred to.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure 1 in No. 630.—Translation.]

PROCLAMATION TO THE GERMAN ARMY.

While the army has only just put off the outward signs of mourning for its late Emperor-King William I, my highly revered grandfather, whose memory will live forever in its heart, to-day it has sustained another heavy blow in the death, at 5 minutes past 11 o'clock in the forenoon, of my deeply loved father, His Majesty the Emperor-King Frederick III. Truly these are solemn days of affliction, in which God's providence has placed me at the head of the army, and it is indeed from a deeply moved heart that I address my soldiers for the first time.

The confidence, however, with which I assume the position to which God's will has called me is firm and unshakable, for I am aware of that enthusiastic feeling for honor and duty which has been implanted in the army by my glorious predecessors, and of the elevation at which this sentiment has ever and at all times been maintained.

In the army a fixed, unswerving devotion to the sovereign is the inheritance which passes from father to son, from generation to generation; and for my part I may call your attention to the figure of my grandfather, which stands in the sight of each one of you, the picture of a glorious and venerable sovereign. A picture more beautiful, or one which speaks more plainly to the heart, can not be conceived. There is also my dear father, who, as Crown Prince, had already won for himself a place of honor, in the annals of the army, and finally there is a long line of illustrious ancestors whose names shine bright in history and whose hearts beat warm for their soldiers.

Thus we belong to each other, I and the army; thus were we born for one another; and firmly and inseparably will we hold together, whether God's will give us peace or storm. You are now about to swear the oath of fidelity and obedience to me, and I vow ever to bear in mind that the eyes of my forefathers are looking down upon me from the other world, and that to them I must one day render account of your fame and honor.

Castle of Friedrichskron, June 15, 1888.

WILLIAM.

[Inclosure 2 in No. 630.—Translation.]

PROCLAMATION TO THE NAVY.

With a deeply-moved heart I have to inform the navy that to-day my dear father, His Majesty the German Emperor and King of Prussia, Frederick III, gently fell asleep in the Lord at five minutes past 11 o'clock in the forenoon, and that I, passing to the station destined for me by the will of God, have taken over the government of my ancestral land, and with it the chief command of the navy.

Truly this is a deeply solemn time at which my first words to the navy are addressed. The outward signs of mourning have just been put off which were assumed for my dear and never-to-be-forgotten grandfather, the Emperor William I, who only last year, on the occasion of his visit to Kiel, expressed in the warmest terms his lively satisfaction in and gratitude for the progress made by the navy during his glorious reign; and already the flags are being once more hauled down for my much loved father, who felt so great a pleasure and interest in the navy's growth and advancement. Times of solemn and genuine grief, however, strengthen the feelings and render stanch the hearts of men; and so, while faithfully preserving in our hearts my grandfather's and father's memories, let us look forward with consolation to the future.

The navy knows that I have not only derived great pleasure from being connected with it as an officer, but that a warm and lively interest, which I share in the fullest harmony with my dear brother, Prince Henry, of Prussia, has attached me to it ever

since my earliest youth. I have learnt to know how high is that feeling for honor and the faithful fulfillment of duty which exists in the navy. I know that each sailor is willing joyfully to sacrifice his life for the honor of the German flag wherever or whenever occasion demands, and so I am enabled at this solemn hour to declare with absolute assurance that we will stand firmly and surely together, in good or bad times, in storm or sunshine, ever mindful of the fame of the German Fatherland, and ever ready to shed our heart's blood for the honor of the German flag. With these aspirations God's blessing will be ours.

Castle of Friedrichskron, June 15, 1888.

WILLIAM.

[Inclosure 3 in No. 630.—Translation.]

PROCLAMATION TO THE GERMAN PEOPLE.

TO MY PEOPLE:

God's decree has once more plunged us into the most poignant sorrow. The tomb has scarcely closed over the mortal remains of my never-to-be-forgotten grandfather, when His Majesty, my warmly-loved father, has also been called from this life into everlasting peace. The heroic energy, prompted by Christian self-sacrifice, with which, despite his sufferings, he knew how to fulfill his kingly duties, seemed to justify the hope that he would be preserved to the Fatherland still longer. God has willed differently.

The royal sufferer, whose heart beat responsively to all that was great and beautiful, only had a few months granted him to display on the throne also the noble qualities of mind and heart which have won for him the love of his people. The virtues which adorned him, the victories which he achieved on the battle-field, will remain in grateful remembrance as long as German hearts shall beat, and imperishable glory will illumine his chivalrous figure in the history of the Fatherland.

Called to the throne of my fathers, I have assumed the government, looking up to the King of Kings, and have vowed to God that, after the example of my fathers, I will be a just and clement prince to my people, that I will foster piety and the fear of God, and that I will protect peace, promote the welfare of the country, be a helper of the poor and distressed, and a true guardian of the right.

In praying God for strength to fulfill these kingly duties which His will imposes upon me I am supported by the confidence in the Prussian people, which a glance at our past history gives me. In good and in evil days the Prussian people have always stood faithfully by their King. Upon this fidelity, which my fathers have found to be an indissoluble bond in all times of difficulty and danger, I, too, count, with the consciousness of returning it from the bottom of my heart as the faithful prince of a faithful people, both equally strong in devotion to their common Fatherland.

From this consciousness of the reciprocated love which unites me with my people I derive the confidence that God will vouchsafe to me strength and wisdom to exercise my kingly office for the welfare of the Fatherland.

WILLIAM.

POTSDAM, *June* 18, 1888.

No. 463.

Mr. Coleman to Mr. Bayard.

No. 631.] LEGATION OF THE UNITED STATES,
Berlin, June 22, 1888. (Received July 9.)

SIR: I have the honor to inclose herewith a copy of the passport application of Charles Stein, which has been forwarded to this legation under cover of a communication from our consulate at Hamburg, with which several other passport applications were also inclosed. With respect to the application in question the above communication states:

Mr. Stein is in possession of a passport, although he has never taken out his second paper.

You will observe that in the passport application naturalization is not claimed, but rather distinctly negatived, and that the passport re-

ferred to, which is also inclosed herewith, refers to the present applicant as—

Charles Stein, who is lawfully liable to military duty in this country, and who has declared his intention to become a citizen of the United States, etc.

I can find no warrant in law for the issue by this legation of a regular passport to a person who has not been naturalized as a citizen of the United States, nor for the issue of a passport of the modified character of the inclosed to a person who has only declared his intention to become a citizen.

I respectfully ask that I may be instructed as to the disposition to be made of the inclosed application and passport of Mr. Stein, who has been informed, through the consulate at Hamburg, that the same have been transmitted to Washington for your decision, pending which I shall adopt such means as may be necessary and proper for his protection.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure in No. 631.]

Passport of Charles Stein.

UNITED STATES OF AMERICA.

To all to whom these presents shall come, greeting.

I, the undersigned Secretary of State of the United States of America, hereby request all whom it may concern to permit safely and freely to pass Charles Stein, who is lawfully liable to military duty in this country, and who has declared his intention to become a citizen of the United States, and in case of need to give him all lawful aid and protection.

Given under my hand and the impression of the seal of the Department of State, at the city of Washington the 27th day of March, A. D. 1866, in the ninetieth year of the Independence of the United States.

No. 24717.

[SEAL.] WILLIAM H. SEWARD.

Description.—Age, thirty-eight years; stature, 5 feet 5 inches, English; forehead, full; eyes, gray; nose, pointed; mouth, ordinary; chin, oval; hair, light; complexion, healthy; face, round.

Signature of the bearer.

CHARLES STEIN.

Renewed at the American legation at Berlin June 15, 1869, for one year from date. Good for Russia.

ALEXANDER BLISS,
Secretary of Legation.

No. 464.

Mr. Coleman to Mr. Bayard.

No. 635.] LEGATION OF THE UNITED STATES,
Berlin, July 2, 1888. (Received July 14.)

SIR: I have the honor, recurring to the minister's dispatch, No. 595, of March 22 last, to transmit herewith further correspondence* with our consul-general at Frankfort-on-the-Main and with Mr. Samuel R.

* Only selections from this correspondence are printed.

Honey, touching a tax imposed by the Prussian authorities of that city upon the income expended by Mr. Honey's wife, who has been long sojourning there with her daughter, and also a copy of a brief note I have to-day addressed to Count Bismarck, requesting him to kindly cause Mr. Honey's appeal to the Prussian minister of finance to be conveyed to its destination.

I have undertaken to thus convey the appeal in question for the reason that it had been prepared and signed by Consul-General Mueller, who can not with propriety address himself directly to the Prussian minister of finance, but who has throughout acted as Mr. Honey's agent in corresponding with local authorities in relation to the tax complained of by that gentleman, and who appears to be familiar with all its details.

The correspondence inclosed herewith will speak for itself. The documents referred to in Mr. Mueller's letter have been heretofore transmitted to you with the dispatch above referred to.

Trusting my course in relation to this matter may meet with your approval,

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure 1 in No. 635.]

Mr. Mueller to Mr. Pendleton.

[Extract.]

CONSULATE-GENERAL OF THE UNITED STATES,
Frankfort-on-the-Main, June 30, 1888.

SIR: At the special request of Mr. Honey, now here on a short visit, I have the honor to transmit to you for examination and such action as you may think expedient, a written appeal to the minister of finance at Berlin, with seven inclosures, and also a letter of Mr. Honey addressed to you.

You will perceive by perusal of the papers that the remedies provided for by the income-tax law have been exhausted, and that no course is left to be pursued except an appeal to the minister of finance, which, as competent lawyers inform me, is permitted and frequently resorted to.

I have no doubt in my mind, and lawyers concur in my opinion, that the tax assessment is not warranted or authorized by the income-tax law, and that the holdings of the assessing board and district commission are clearly erroneous and untenable; and inasmuch as the question involved is of great consequence to married ladies temporarily staying in Germany, and as the Honey matter presents all the disputed points in the case, I can not help thinking that it is worth the best efforts to invoke a decision of the highest administrative tribunal thereon.

I am, sir, your obedient servant,

JACOB MUELLER.

[Inclosure 4 in No. 635.]

Mr. Coleman to Mr. Mueller.

[Extract.]

No. 3083.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, July 1, 1888.

SIR: I have to-day received your letter of yesterday with its inclosures.

Realizing that your appeal to the Prussian minister of finance could not with propriety be transmitted by you directly to its destination, I shall, pursuant to your request, transmit it to its address through the proper channel.

I remain, etc.,

CHAPMAN COLEMAN.

[Inclosure 5 in No. 635.]

Mr. Coleman to Count Bismarck.

F. O. No. 376.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, July 2, 1888.

The undersigned, chargé d'affaires *ad interim* of the United States of America, has the honor to request that his excellency Count von Bismarck-Schönhausen, imperial secretary of state for foreign affairs, will permit him to avail himself of the kind mediation of the foreign office for the conveyance to its destination of an appeal addressed to the royal Prussian minister of finance by the consul-general of the United States at Frankfort-on-the-Main, which relates to the imposition by the authorities of that city of certain taxation upon income expended there by the wife of Mr. Samuel R. Honey, an American citizen.

The undersigned, while inclosing the appeal above referred to, avails, etc.

CHAPMAN COLEMAN.

[Inclosure 6 in No. 635.—Translation.]

APPEAL TO PRUSSIAN MINISTER OF FINANCE.

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
Frankfort-on-the-Main, June 30, 1888.

At the request of Mr. Honey, attorney at law, of Newport, R. I., United States of America, I have the honor to appeal to the high ministry against the decision, of which a copy is inclosed, of the income-tax district commission at Wiesbaden of February 29, 1888, according to which the classified income tax assessed against Mr. Honey is declared to be just and his remonstrance against the same unfounded.

The grounds upon which objection was made to the lawfulness of that tax assessment before the assessment and district commission will be found stated in the inclosures 1, 2, and 3, which I beg to recapitulate here. They are the following:

(1) That it is not contested that Mr. Honey is an American citizen, conducting his law practice at Newport, R. I., United States of America, and having there his actual and lawful domicile.

(2) That Mr. Honey never had a residence in Germany, and that in the Kingdom of Prussia he has never had either property, business, or income.

(3) That the temporary sojourn of Mrs. Honey and daughter at Frankfort can not change the domicile of her husband in Rhode Island.

(4) That Mrs. Honey has neither business, property, or income of any description in Germany; that rather her support and the expenditure of herself and daughter, who is attending the school of music, are met and defrayed exclusively with pecuniary means which are earned by her husband at his American home, taxed there, and sent here at his pleasure.

The decision of the royal district commission is based on the theory that Mr. Honey has a domicile at Frankfort in the sense of the law applying to the subject, because the dwelling occupied and arranged by them for permanent sojourn afforded his wife and daughter a shelter corresponding with their circumstances, and I beg to remark with respect to this supposition that it is an erroneous one, as Mrs. Honey has not arranged any dwelling, but has simply rented furnished rooms for a short period, and that all the furniture belongs to the landlady and owner of the house.

In conclusion, I beg to add to this appeal the request that the high ministry may be pleased to direct that the sum of 111 marks 60 pfenning, which, pursuant to the inclosed receipt, Mrs. Honey has paid to the Royal kreis treasury, in order that she might no longer be exposed to annoyances from the tax collector, be returned.

I have the honor to subscribe myself, with distinguished consideration,

JACOB MUELLER,
Consul-General.

No. 465.

Mr. Coleman to Mr. Bayard.

No. 638.] LEGATION OF THE UNITED STATES,
Berlin, July 5, 1888. (Received July 21.)

SIR: I have the honor to inclose herewith a copy of my note addressed to the imperial secretary of state for foreign affairs in execution of your

instruction No. 329, of the 19th ultimo, relating to the resolution of the House of Representatives expressing sorrow for the death of the late Emperor Frederick III, and to be, sir.

Your obedient, etc.,

CHAPMAN COLEMAN.

[Inclosure in No. 638.]

Mr. Coleman to Count Bismarck.

F. O. No. 378.] LEGATION OF THE UNITED STATES OF AMERICA,
Berlin, July 5, 1888.

The undersigned, chargé d'affaires *ad interim* of the United States of America, has the honor, acting under instructions from his Government, to transmit herewith to his excellency Count von Bismarck-Schönhausen, imperial secretary of state for foreign affairs, an engrossed copy of the resolution agreed to by the House of Representatives of the United States on the 15th of June last, expressing profound sorrow for the death of the Emperor Frederick III, and sympathy with the German nation in the loss of their great and renowned ruler.

Commenting on the circumstance that this resolution contains no request or direction as to its communication to the Government of Germany, the Hon. Mr. Bayard, Secretary of State, remarks in his instructions to the undersigned that it appeared simply as an expressive tribute to the memory of one whose heroic endurance and admirable bearing amid sufferings and in the very article of death has endeared his memory to the hearts of all men.

The thanks of His Majesty the Emperor and King for this manifestation of regard by the House of Representatives, communicated to the Government of the undersigned by Count Arco-Valley, the imperial German minister at Washington, have been conveyed to that body by the honorable Secretary of State.

While expressing his regret that the inclosed copy of the resolution has sustained some injury in its transmission from America, the undersigned avails, etc.,

CHAPMAN COLEMAN.

No. 466.

Mr. Bayard to Mr. Pendleton.

No. 333.] DEPARTMENT OF STATE,
Washington, July 7, 1888.

SIR: I inclose herewith, for your information, copies of correspondence with the Hon. J. H. Ketcham, of the House of Representatives, relative to the question whether American citizens can be validly married in foreign countries, and whether validity would attach to such marriages if solemnized at the house of the American legation at Berlin or Brussels, "according to home form."

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 333.]

Mr. Wheeler to Mr. Ketcham.

POUGHKEEPSIE, N. Y., *June* 25, 1888.

MY DEAR SIR: Will you kindly ascertain for me this, at the quarters of Mr. Bayard, Secretary of State?

Can American citizens traveling in foreign countries be married in American forms and by an American clergyman? The case is this: Two Poughkeepsians wish to be married at Antwerp or Berlin by their own pastor. Please do me the favor to make

this inquiry of Mr. Bayard, whether such marriage can be consummated at the house of the American legation, according to home forms. An early answer is requested, if consistent with your engagements.

Very truly, yours,

FRANCIS B. WHEELER.

[Inclosure 2 in No. 333.]

Mr. Bayard to Mr. Ketcham.

DEPARTMENT OF STATE,
Washington, July 2, 1888.

SIR: I have the honor to acknowledge the receipt of your communication and the letter of F. B. Wheeler, D. D., of Poughkeepsie, inclosed therewith, inquiring whether American citizens can be validly married in foreign countries and whether validity would attach to such marriages if solemnized at the house of the American legation at Antwerp or Berlin "according to home form." In reply I have to say that it is a settled rule of international law that the solemnization of marriages, to have ubiquitous validity, must be in conformity with the law of the place of celebration, if such place be in a civilized land, and unless the law of such place prescribes conditions repugnant to conscience.

It is also, I apprehend, settled law that a marriage not solemnized in conformity with the law of the place of celebration is not validated, so far as concerns its effect in places where there is not a statute validating it by the mere fact of its having been solemnized at the legation of the country to which the parties belong and in conformity with the form held valid in such latter country.

Whether a marriage solemnized abroad in the presence of a consular officer of the United States is validated so far as concerns this country, under the act of Congress of June 22, 1860, by the fact of the presence of the consul depends upon whether the parties are domiciled in the District of Columbia or in one of the Territories of the United States. If they are not, but are domiciled in one of the States of the Union, then the question, so far as concerns such State, would depend upon the law of that State. So far, however, as concerns foreign countries, *e. g.*, Belgium or Germany, the question of the validity of the solemnization would depend upon their own law; and that law is understood to incorporate the general principle above stated, that a solemnization of marriage to be valid must be in conformity with the law of the place of celebration. I have, however, now to add that the question you propose is one ultimately to be determined by courts of justice under the circumstances of each particular case; and that my duty is not to predict what would be the action of such courts, but to give in response to inquiries such cautions as may induce American citizens proposing to be married abroad to take every step which may be necessary to give validity to an act whose invalidity would be fraught with consequences serious both to themselves and to the community.

I have the honor, etc.,

T. F. BAYARD.

No. 467.

Mr. Bayard to Mr. Coleman.

No. 334.] DEPARTMENT OF STATE,
Washington, July 10, 1888.

SIR: Your No. 631 of 22d ultimo has been received. You therewith submit the application of Charles Stein for a passport, said application being accompanied by an original passport, No. 24717, dated March 27, 1866, and signed by Mr. Seward, then Secretary of State, in which the bearer is described as "Charles Stein, who is lawfully liable to military duty in this country, and who has declared his intention to become a citizen of the United States."

No evidence is furnished that Mr. Stein has since been naturalized. You state that you find no warrant of law for the issuance of a pass-

port, so modified, to a person who has only declared his intention to become a citizen, and you accordingly ask instructions in the premises.

During our civil war, and when persons of foreign origin, domiciled in the United States, or who had taken out their first citizen-papers were subject to military service, a statute was enacted providing:

That so much of the act approved the eighteenth of August, eighteen hundred and fifty-six, entitled "An act to regulate the diplomatic and consular systems of the United States" as prohibits the granting of passports to any other than citizens of the United States, shall be, and is hereby, repealed, so far as that prohibition may embrace any class of persons liable to military duty, by the laws of the United States. (Act March 3, 1863, section 23, 12 U. S. Stats., 754.)

Mr. Stein's old passport was issued in conformity with that provision, and is not a certificate of citizenship, but merely a permit to leave the country. This special enactment was repealed by the act approved May 30, 1866 (14 U. S. Stats., 54), which further provided as follows: "And hereafter passports shall be issued only to citizens of the United States." This is the existing law (section 4076, Revised Statutes), and under it no passport can be issued to a person who has merely declared his intention to become a citizen.

It is observed that Mr. Stein's old passport bears the following indorsement:

Renewed at the American legation at Berlin June 15, 1869, for one year from date, good for Russia.

ALEXANDER BLISS,
Secretary of Legation.

As the statute under which the original passport was issued had been repealed for more than three years, that indorsement, so far as it purports to renew the said passport, is wholly without authority of law and void. A note to this effect should be made opposite any record of such "renewal" which exists in your legation.

I am, etc.,

T. F. BAYARD.

No. 468.

Mr. Coleman to Mr. Bayard.

No. 639.] LEGATION OF THE UNITED STATES,
Berlin, July 16, 1888. (Received July 30.)

SIR: Recurring to dispatch No. 638, of the 5th instant, from this legation, relating to the resolution of condolence of the House of Representatives on the occasion of the death of Emperor Frederick III, I have the honor to transmit herewith a copy, with translation, of a note, dated the 11th instant, from Count Bismarck, expressing the renewed thanks of His Majesty the reigning Emperor.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure in No. 639.—Translation.]

Count Bismarck to Mr. Coleman.

FOREIGN OFFICE,
Berlin, July 11, 1888.

The undersigned has had the honor to receive the esteemed note of the 5th instant and its inclosure, a copy of the resolution of sympathy adopted by the House of Rep,

resentatives of the United States on the occasion of the death of His Majesty the Emperor and King, Frederick, and has not failed to present them to the now reigning Emperor and King.

His majesty was much affected by the tenor of the same, and has been pleased to instruct me to express again to the chargé d'affaires, Mr. Coleman, his thanks for this manifestation, already conveyed through the envoy, Count von Arco.

While the undersigned has the honor to comply with this highest command, he at the same time avails, etc.

H. BISMARCK.

No. 469.

Mr. Bayard to Mr. Pendleton.

No. 339.] DEPARTMENT OF STATE,
Washington, July 18, 1888.

SIR: I have to inclose herewith a copy of a note* of the 2d ultimo from the imperial German chargé d'affaires at this capital, and also a copy of a dispatch, No. 123, of the 16th ultimo, from the American consul-general at Apia, in relation to the dispute over the pilot station at the latter place, which formed the subject of my instruction to you of the 10th of April last.

I am glad to note the adjustment of the controversy in a manner satisfactory to all parties. In regard to the disposition of the pilot house, the views of this Department coincide with those of the Imperial Government, that the building, which was erected out of the municipal funds while the land was leased by the late municipality, should be treated as part of its assets. The complaint of this Government related solely to the question of title to the land; and if the position of Mr. Sewall is correctly understood by the Imperial Government to have been that, upon the termination of the lease, the building became the absolute property of the lessor, such a contention was not authorized by this Department.

You are instructed to communicate these views to the German Government.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 339.]

Mr. Sewall to Mr. Rives.

No. 123.] CONSULATE-GENERAL, UNITED STATES OF AMERICA,
Apia, Samoa, June 16, 1888.

SIR: I have the honor to report that the difficulty caused by the conflicting claims to the property known as the pilot station, which formed the subject of my dispatch numbered 93, dated February 24, has been satisfactorily adjusted.

By the terms of the indenture made between Coe and myself, of even date with the deed transferring to me his interest in the property in question, it is provided that, in case he should be found indebted to Messrs. McArthur & Co. in the matters in dispute between him and that firm, then about to be submitted to arbitration on a commission issuing from this consular court, I should sell the land within three months of the publication of the award. This was made March 15. Accordingly on the 11th of this month, the award remaining unsatisfied, I had sold at public auction all the interest in the above-mentioned property which Coe deeded to me. This was bought by Brandeis for $2,500, which was the highest amount bid.

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*See Doc. No. 493, *post* p. 676.

The American claim to the land is thus disposed of, and all personal claim to the house as a part of the freehold. The German consul maintains that the house is the joint property of the tax-payers of the former municipality. The British consul awaits instructions in the premises. Should he assume the position of the German consul, I shall of course claim for the American tax-payers their proportionate share in the property.

Since the sale I have received from Brandeis a letter, a copy of which is inclosed, in which he asks if I have objections to the port pilot in the interest of the pilot service using the house, which has been unoccupied since it was sealed with the seal of the German consulate. The German and British consuls having previously given their consent, I replied that I had no objections to the course proposed.

I have, etc.,

HAROLD MARSH SEWALL.

[Inclosure 2 in No. 339.]

Mr. Brandeis to Mr. Sewall.

MULINUU, *June* 13, 1888.

SIR: Having bought to-day, in auction held by order of your consular court, the land of the former pilot station, with all appurtenances thereunto belonging, I have the intention to install the pilot for the port of Apia in the house erected upon the said land and to make use of the same in the interest of the pilot service.

The Imperial German and Her Britannic Majesty's consuls having already given their consent, I have the honor most respectfully to ask you if you have any objection against the carrying out of my intention concerning the pilot-house.

I have, etc.

BRANDEIS.

No. 470.

Mr. Bayard to Mr. Pendleton.

No. 341.] DEPARTMENT OF STATE,
Washington, July 19, 1888.

SIR: I have to acknowledge the receipt of Mr. Coleman's No. 635, of the 2d instant, and to approve his transmission, through the proper channel, of the appeal to the Prussian minister of finance regarding the income tax recently assessed on the American citizen S. R. Honey by the government authorities at Frankfort.

I am, etc.,

T. F. BAYARD.

No. 471.

Mr. Coleman to Mr. Bayard.

No. 645.] LEGATION OF THE UNITED STATES,
Berlin, July 23, 1888. (Received August 4.)

SIR: I have the honor to acknowledge the receipt to day of your instruction No. 333 of the 7th instant, inclosing a correspondence between the Hon. J. H. Ketcham, of the House of Representatives, and yourself, relative to the validity attaching under certain specified conditions to marriages of American citizens in foreign countries.

Your succinctly stated views as communicated in your reply to Mr. Ketcham will constitute a valuable addition to the archives of this lega-

tion, and enable it to answer with greater precision and better authority than heretofore the numerous inquiries addressed to it on this subject.

In your reply you state:

So far, however, as concerns foreign countries, *e. g.*, Belgium or Germany, the question of the validity of the solemnization would depend upon their own law, and that law is understood to incorporate the general principle above stated, that a solemnization of marriage to be valid must be in conformity with the law of the place of celebration.

The principle stated in the above passage is in entire conformity, as far as this country is concerned, with statutory provisions, the law declaring that a marriage within the German Empire can only be validly concluded before the designated civil official, the "Standesbeamter," and imposing a penalty upon any clergyman or other minister of religion who solemnizes a marriage before it has been proven to him that the marriage has been concluded before the civil official.

In order to supply to the Department, in a form convenient for reference, the pertinent provisions of German law, I transmit herewith the copies and carefully prepared translations of the statutory declarations above referred to.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure in No. 645.—Translation.]

Imperial law of February 6, 1875, *concerning the authentication of personal status and the conclusion of marriage.*

SEC. 41. Within the domain of the German Empire a marriage can only be validly concluded before the "Standesbeamter" (civil registrar).

SEC. 67. A clergyman or any other minister of religion who undertakes the religious solemnization of marriage before it has been proven to him that the marriage has been concluded before the "Standesbeamter" (civil registrar) is punishable by fine not exceeding 300 marks, or by imprisonment of not more than three months.

No. 472.

Mr. Coleman to Mr. Bayard.

No. 656.] LEGATION OF THE UNITED STATES,
Berlin, August 13, 1888. (Received August 25.)

SIR: Referring to previous correspondence relating to Mr. Samuel R. Honey's contention with the Prussian authorities with regard to the liability to pay a tax on income expended by his wife and daughter at Frankfort-on-the-Main, I have the honor to state that the foreign office has informed this legation under date of the 10th instant, in a communication of which I inclose herewith a copy, with translation, that the Prussian minister of finance has directed that the imposition of the tax in question shall be discontinued and the amount already paid refunded.

The legation is also informed that the question of Mr. Honey's liability to a communal tax has been referred to the Prussian minister of the interior, and that a further communication relating thereto will be made to the legation.

I will remark in this connection that Mr. Honey's complaints to this legation have been hitherto understood to relate solely to the imposition of income tax.

The legation has notified Mr. Honey through the consulate-general at Frankfort-on-the-Main of the favorable decision and action of the minister of finance.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure in No. 656.—Translation.]

Mr. Hellwig to Mr. Pendleton.

FOREIGN OFFICE,
Berlin, August 10, 1888.

Referring to the note of the 2d ultimo, foreign office No. 376, the undersigned has the honor to inform the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. George H. Pendleton, that the royal Prussian minister of finance has directed that the state income tax assessed against the lawyer, Honey, of Newport, R. I., at Franfort-on-the-Main, since September 1, 1887, be discontinued, and the tax already paid be refunded. In so far as Mr. Honey's complaint relates to the communal tax demanded of him, the royal Prussian minister of the interior has been requested to give the matter further consideration.

While the undersigned expresses the purpose of making a further communication with respect to the last-named matter, etc.,

HELLWIG.

No. 473.

Mr. Coleman to Mr. Bayard.

No. 672.] LEGATION OF THE UNITED STATES,
Berlin, October 1, 1888. (Received October 13.)

SIR: With respect to the events reported by telegraph to the London Times as having recently occurred in the Samoan Islands, and which appear likely to culminate in the entire overthrow of Tamasese, installed there as ruler since the removal of King Malietoa by the Germans, the press of this country has had surprisingly little to say, the various papers considered to be in a measure governmental less, and the especial organ of the chancellor of the Empire, the North German Gazette, as far as I have been able to discover, not even reproducing the London telegrams.

Such brief allusions as I have found in newspapers of this city are in the nature of comments upon the telegrams referred to and upon an editorial relating to Samoan affairs published in the London Times of the 17th ultimo. I therefore inclose this editorial, the articles in question, and a letter to the Times relating to the same subject, which appeared in its number of the 28th ultimo.

Commenting on the outbreak announced as having occurred in Samoa, the Vossische Zeitung, a liberal Berlin paper, remarks in its issue of the 18th ultimo:

From Samoa intelligence of the outbreak of a rebellion for the purpose of overthrowing the present King Tamasese has been received. The reports state that the final deposition of Tamasese was regarded as inevitable unless Germany should give him support. The consideration of this possibility seems to cause great disquiet in the English press. A telegram received by us to-day reads: "In connection with

the reports from Samoa and the demand for German support for Tamasese, the Times remarks that the Governments of England and America would make representations at Berlin with a view to the restoration of Malietoa. This restoration would serve as a basis of union between the three Governments, and the predominance of German influence in Samoa, which is the just consequence of the preponderance of German trade there, would then be welcomed by all concerned."

As is known, it is true that Malietoa, after having been liberated in Germany, is now on his way back to his home, but it is far from certain that it was intended to thereby open up the way to the throne for him. It was the practices of Malietoa, hostile to Germany, which first disturbed peace and tranquillity at Samoa. In case the conflicts and agitation should really threaten the position of the present King, the three powers primarily interested will undoubtedly seek to arrive at an understanding respecting the secure establishment of power there, without the independence of the islands, guarantied by treaty, being called in question by any party, or without Germany being compelled to re-admit to authority a chief manifestly hostile to it, and whom it has removed in the interests of peace.

The same paper remarks in its issue of the 28th ultimo:

In Samoa events have taken the course that was feared. [Here the London telegrams reporting defeat in battle of Tamasese are quoted.] In accordance herewith it would seem that serious and difficult tasks await the Empire in the South Sea as well as in East Africa.

The National Gazette, the principal organ of the national liberal party, published yesterday, remarks:

With respect to the disturbances at Samoa the Government, pursuant to a communication we have received, awaits fuller information, the intelligence thus far received being too meager. In any event there need be no apprehension that the good understanding of the three interested Governments of Germany, England, and America would be in any way impaired on account of Samoa. It seemed that diplomatic negotiations concerning joint action to be taken by the three powers were impending.

I shall not fail to report to you promptly any authoritative information I may be able to obtain concerning the attitude of this Government toward Samoa in view of the altered aspect of affairs resulting from the revolution against Tamasese, which appears to have recently occurred there.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure 1 in No. 672.—From London Times of September 17, 1888.]

FOREIGN AND COLONIAL NEWS.

We have received the following telegrams through Reuter's agency:

REBELLION IN SAMOA.

AUCKLAND, *September* 15.

Advices received here from Samoa state that a rebellion has broken out there owing to Herr Brandeis having made an attempt to induce the natives to confer on Tamasese, the present King, the name of Malietoa, and also on account of the excessive taxation to which the people are subjected by the existing government.

Herr Brandeis placed himself at the head of a body of Samoans loyal to King Tamasese and went out to meet the rebels, whom he encountered in the bush. In the conflict which ensued seven of the supporters of Tamasese and three of the rebels were killed, while the number of wounded on both sides was large. Herr Brandeis' force now numbers 1,400 men. A thousand Savaii natives have flocked to the camp of the partisans of the dethroned King Malietoa, bringing their total effective force up to 3,000 men.

The ultimate deposition of Tamasese is regarded as inevitable unless support is rendered him by the Germans.

[Inclosure 2 in No. 672.—From London Times of September 17, 1888.]

Rather more than a week ago a telegram from Berlin announced that Malietoa, the ex-King of Samoa, had been released from captivity and was about to return to his native land. Hardly have people ceased to wonder what this move on the part of Prince Bismarck portends, when news arrives by way of Auckland, New Zealand, that an insurrection is in progress in Samoa against the new King Tamasese, and that it promises to be successful, unless the Germans interfere vigorously on behalf of their nominee. Malietoa, it will be remembered, was deposed by an armed force of Germans in August of last year, and, according to report, was exiled to New Guinea, although we are not in a position to say that New Guinea has been throughout the place of his imprisonment. Tamasese, his rival of long standing for the sovereignty of the Samoan group of islands, was created King in his place.

But the position of this puppet became precarious as soon as the German ironclads left Apia. In the days before Malietoa's deposition Tamasese had never been more than a rebel, incapable of making head against Malietoa, and only shielded from his vengeance by German influence. The proceedings of the King and of the German agent have not been calculated to win popularity for the new dynasty. One step in particular on the part of Herr Brandeis seems to have provoked much resentment among the clansmen of Malietoa. He caused the ruler, whom the majority of the Samoans probably regard as a usurper, to assume the hereditary name of Malietoa, thus wounding the tenderest sentiments of the old loyalists. Oppressive taxation, besides, has filled to overflowing the cup of Tamasese's offending, and the result of it is a full-blown insurrection, in which the insurgents have more than held their own and are twice as numerous as the force of the government. Thus Samoa plunges once more into the anarchy and bloodshed which have prevailed there, with few interruptions, since time out of mind, and to which it was fondly believed that German intervention had put an end.

It remains to be seen whether Germany regards herself as responsible for the maintenance of the *status quo* in Samoa. If Prince Bismarck could see his way to allowing matters to take their course without any interference on the part of Germany, the rest of the world would probably be satisfied; roughly speaking, justice would be done, and the return of order would quickly come with the overthrow of Tamasese and the restoration of Malietoa. It would be too much to assume that Malietoa's release at this juncture, and his impending return to Apia, represent anything more than clemency on the part of the German Government, or that they signify any intention to substitute him for the weakling Tamasese.

Yet it is difficult to say why so unsentimental a person as Prince Bismarck should do the thing of all others most calculated to upset his work in Samoa by letting loose Malietoa among his former subjects. The Germans have certainly not much to congratulate themselves upon in their recent connection with Samoa. They have for many years kept, or greatly contributed to keep, the islanders in hot water, and they have derived next to no advantage from so doing. In selecting Samoa as a field for German activity the German Government was acting upon the well-known maxim of Prince Bismarck, that the flag ought to follow the trade. By far the most important trading firm in the islands is a German company. The case of Samoa, however, is a proof that the maxim is capable of great abuse. Whatever the German foreign office might think, it has throughout been made a tool of by Messrs. Godeffroy and the company which has stepped into their shoes. All the intrigues of this firm with Tamasese against Malietoa have been consciously or unconsciously adopted by the German Government in defiance of all the dictates of justice, and, what is very unusual for Germany, without much regard for treaties with other countries which were interested in Samoa. The Germans, in formal declarations, recognized the authority of Malietoa, and accredited their consul to him. Yet they never lost an opportunity of inflicting humiliation upon him or of backing up the rebel Tamasese. It was a perfectly understood thing that any attempt upon the part of Malietoa to enforce his authority against Tamasese would be resented by the Germans and probably treated as a *casus belli*. At the same time it must be admitted that the British Government showed a lamentable want of firmness in abandoning Malietoa and allowing their own treaty rights to be evaded. In 1884 a treaty was entered into between Germany and England to respect the independence of Samoa. That agreement has been in several instances ignored by the Germans. It was ignored when, in November of the same year, the German consul forced King Malietoa to sign a treaty giving Germany a virtual protectorate. It was again superseded when Malietoa was deposed by way of punishment for imaginary insults to Germany, and another ruler installed in his place, under the complete control of a German official. Germany, indeed, seems to recognize no obligation in Samoa except that of not in terms annexing the islands.

The Germans, apparently, will find that their responsibilities in Samoa were far from ended by the substitution of one ruler for another. They are now face to face with a difficult state of things. On the one hand, they are debarred by international

pledges from annexation out and out. On the other, they are probably beginning to realize that nothing short of the permanent maintenance of an armed force of Germans in Samoa will preserve King Tamasese against his subjects. But any proposal to take this course might excite determined protests from England and the United States, the powers which are chiefly concerned in preserving the independence of the Samoan group. This country, however, can have no wish to obstruct the restoration of order in Samoa. Yet we should not be sorry to see King Malietoa come to his own again. Both the British and the United States Governments behaved shabbily to this monarch. The British and United States consuls dissuaded him from offering any resistance to the German force which demanded his surrender, and Malietoa naturally interpreted their advice as meaning that their Governments would see that he got his rights. In point of fact, Malietoa was left to his fate. We can not resist a hope that, even at this late hour, the British and United States Governments will appeal to Germany in his behalf. His restoration would serve as a basis of union between the three Governments, and the predominance of German influence in his councils, which is the just consequence of the preponderance of German in trade in Samoa, would then be welcomed by all parties.

[Inclosure 3 in No. 672.—From London Times of September 28, 1888.]

FOREIGN AND COLONIAL NEWS.

We have received the following telegrams through Reuter's agency:

THE REBELLION IN SAMOA.

AUCKLAND, *September* 27.

Advices received to-day from Samoa announce that Tamasese, the king set up and supported by the Germans after the defeat and capture of King Malietoa, has been totally defeated by the partisans of Malietoa, after severe fighting.

The troops of King Tamasese have been led in the recent fighting by Herr Brandeis, the German vice-consul.

The latest intelligence, dated the 18th instant, received here from Samoa, states that part of the force supporting the present king, Tamasese, being allowed to leave the neutral territory, went to Vaielils (?), whither they were being hotly pursued by the partisans of Mataafa, the newly proclaimed king. Another battle was consequently regarded as imminent.

SYDNEY, *September* 27.

The latest intelligence received here regarding the rebellion in Samoa states that an engagement took place on the 12th instant, in which, after several hours hard fighting, the supporters of Tamasese were completely defeated by the partisans of Malietoa, who thereupon occupied Apia and proclaimed Mataafa king.

The captain of the steamer *Vindex* was shot while attempting to reach the British consulate, but, with this exception, foreigners were not molested.

Tamasese's men had withdrawn to neutral ground, which was occupied by the Germans.

The German and American war vessels maintained neutrality during the disturbances.

[Inclosure 4 in No. 672.—From London Times of September 28, 1888.]

SAMOA.—A SUGGESTION.

To the Editor of the Times:

SIR: The news received to-day from Auckland will scarcely surprise any one acquainted with Samoan affairs; nor, indeed, will the defeat of the German nominee be altogether unexpected either in London or Berlin. In spite of the influence possessed by Germany in Samoa, the natives dislike the rule and resent the high-handed proceedings of German officials. This fact is known to Prince Bismarck and Lord Salisbury, and yet the former minister insists upon following the German trade with the German flag, and the latter apparently acquiesces in the tactics employed. It would scarcely seem probable in these days of advanced civilization that such prominent powers as Germany, America, and Great Britain should enter into treaties of friendship and reciprocity with a native king and then allow one nation to upset the Gov-

ernment and establish upon the throne the representative of a dynasty in rebellion to the recognized sovereign, and yet this is what America and Great Britain have done in the case of Malietoa. To escape from an awkward position into which these two powers allowed themselves to drift, they abandoned the man to whom they had pledged the honor of their respective countries, and looked on with impunity while the lawful king was an exile in a far-off land and his rebellious rival reigned in his stead. But while this was the line taken by the greater powers, the chiefs of Samoa, true to native instinct, continued to harbor in their breasts that loyalty to their king which foreign nations had tried in vain to upset, and in spite of so-called royal proclamations signed and countersigned thus:

"TUIAANA TAMASESE,
"*King of Samoa.*
"BRANDEIS."

the rule of Tamasese has been overthrown and the advance of Germany in Samoa received a check. But I do not wish to dwell on the past; the past speaks for itself, and what is done can not be undone. It is with the future that we are concerned, both as a people and as a great power, and with the future I would deal. Now, certain treaties and understandings exist between Germany and Great Britain respecting spheres of influence in the Western Pacific, which division of the Pacific Ocean, according to the understanding entered into between those two countries in April, 1886, includes the groups of Tonga and Samoa. These groups, however, are especially excluded from the benefits of that understanding; hence the not unnatural surmise that a secret arrangement with regard to those groups exists between this country and Germany, which arrangement stands in the way of any activity on our part in Samoa. Whether such an understanding exists or not it is not my part to say, but it is very clear that advantage might be taken of the present position of affairs to amend the 1886 understanding with a view to utilizing the amendment as a diplomatic solution of the Samoan difficulty.

I am, sir, yours, obediently,

C. KINLOCH COOKE.

2 GARDEN-COURT TEMPLE, *September* 27.

No. 474.

Mr. Coleman to Mr. Bayard.

No. 675.] LEGATION OF THE UNITED STATES,
Berlin, October 4, 1888. (Received October 20.)

SIR: Referring to the legation's dispatch No. 656, of August 13 last, to your instruction No. 355, of August 27 last, and to previous correspondence relating to certain taxes imposed on Mr. Samuel R. Honey, at Frankfort-on-the-Main, I have the honor to state that the foreign office has informed this legation, under date of the 3d instant, that the mayor of that city has adopted the views of the Prussian minister of finance with respect to the State income-tax heretofore imposed on Mr. Honey, and that consequently the assessment of the communal income-tax against that gentleman has also been discontinued, and the return to him of amounts already paid thereunder directed.

In the dispatch of the legation above referred to, you were informed that similar action by the authorities had been taken with respect to the State income-tax which had been imposed in this case, and in your instruction above particularly mentioned, you stated that you awaited with interest further information as to the "communal" tax.

Information as to the favorable decision in his case regarding the last named tax has also been transmitted to Mr. Honey by this legation.

I have the honor, etc.,

CHAPMAN COLEMAN,
For the Minister.

No. 475.

Mr. Coleman to Mr. Bayard.

No. 681.] LEGATION OF THE UNITED STATES,
Berlin, October 11, 1888. (Received October 29.)

SIR: I have the honor to inclose herewith a report of a so called "military cases," requiring intervention with the foreign office, which I have prepared for the period included between November 8, 1887, and the date of this dispatch. Seven such cases, Nos. 182, 183, 184, 185, 186, 187, and 189 have been submitted and decided—all favorably—during the period referred to. One case, No. 176, designated as unfinished in the report of November 8, 1887, is reported herewith. There are three cases, all relating to fines, presented during that period which are still pending.

The marked decrease in the number of cases occurring during the past year as compared with previous periods of the same length, and their favorable settlement, would seem to afford just grounds for satisfaction.

I have, etc.,

CHAPMAN COLEMAN,
For the Minister.

[Inclosure in No. 681.]

Report on military cases.

176. *Albert Bernhard:*

Born at Mülhausen, Alsace, September 28, 1845; emigrated to the United States in May, 1872; naturalized October 23, 1878; returned in August, 1880, to his native place, where he still resided at last accounts, the circumstances indicating it to be his intention to reside there permanently. Bernhard has claimed indemnification of the German Government for losses sustained in consequence of his arrest and imprisonment in Alsace in 1887, on a charge of participation in a seditious conspiracy. This case has been the subject of laborious and painstaking investigation on the part of the Department of State and the legation, and the records of the latter contain forty-six communications exchanged in the course of the correspondence relating to the same. In the last report of the so-called military cases made by the legation, under date of November 8, 1887, Bernhard's case was designated as unfinished. It may now be regarded as finished in view of the report thereon prepared by the Department of State, under date of April 19, 1888, and transmitted to this legation for its files with instruction No. 315, of April 28, 1888. The completeness of the latter report, which concludes with the statement: "On the whole the case does not appear to be one to which the Department would be justified in intervening," seems to render it unnecessary to further discuss the same here. Since the receipt of that report nothing further respecting Bernhard has been heard at the legation.

182. *Jean Adam Brunner.*

Born at Schorbach, in Alsace-Lorraine, January 21, 1861; emigrated September 18, 1878; naturalized March 28, 1884; returned to his native place in September, 1887. On the 17th of October following he was arrested at Schorbach in consequence of a sentence to a fine of 600 marks or forty days' imprisonment, imposed for avoidance of military service by the penal chamber of the land court at Saargemünd, and was, in default of payment of the fine, conveyed to prison at the last named place. The attention of the legation was within a brief period called to this case by Brunner himself, by his father, his brother, a friend in the United States, and also by the Department of State, to whom his friends had applied for instructions in his behalf to this legation. Having, on October 19 received the first intimation of Brunner's situation, the legation on the same day applied at Schorbach for the further necessary information in the case, received the same on the 24th of that month, and on the same date intervened with the foreign office in his behalf, submitting the facts in the case, inviting attention to the *bona fide* character of his emigration and naturalization, and to the circumstance that he had only returned to his native place on a visit, and asking that in the event of the facts being found upon investigation to be as represented

he be released and the fine remitted. The evidence of Brunner's American citizenship was transmitted to the foreign office with the note of intervention. On November 24, following, Brunner reported to the legation his release on the 20th of that month. It is remarked in this connection that he might have secured the same at any time by the payment, under protest, of the amount of the fine imposed, the recovery of which for him by the legation would have caused no greater difficulty than the obtaining of his release. Referring to the instruction No. 259, of October 28, 1887, of the Department relative to the case, the legation, with dispatch No. 542, of November 27, following, reported proceedings therein and Brunner's release. On the 9th of December following, a note, dated the 8th of that month, was received from the foreign office in reply to the note of intervention confirming the statement received from Brunner of his release, and further informing the legation that the remainder of the punishment adjudged and the costs in the case would be remitted. This intelligence was at once communicated to Brunner, and with dispatch No. 548 of December 12, 1887, to the Department of State, which, with instruction No. 278, of the 31st of that month, expressed gratification with the result reached. Brunner returned to the United States shortly after his release. As illustrating the amount of labor caused by such cases in some instances it is remarked that twenty-four communications relating thereto were exchanged by the legation with its correspondents in the course of the proceedings.

183. *Andrew Byczik.*

Born at Rosko, Prussia, November 13, 1866; emigrated to the United States in November, 1881; naturalized January 30, 1888. On January 13, 1888, the legation received a communication from Byczik, dated the 26th of the preceding month, written from the United States relative to his case, and having on the same day written him for the further necessary facts and papers, received the same on the 6th of February following, with a letter dated the 2d of March preceding. On the same day the legation intervened with the foreign office in Byczik's behalf, inclosing with its communication the evidence of his American nationality, and asking that an attachment to secure a fine imposed for avoidance of military duty by a court at Czarnikow be removed from an inheritance accruing to him from his father, the essential facts as above stated being upon investigation found to be true. On the same day the legation informed Byczik that intervention had been made in his behalf. In an answering note, dated the 23d of April, the foreign office informed the legation that no penal proceedings of the character referred to had been taken against Byczik, and no attachment laid on his inheritance, and that the mistake had probably arisen owing to an attachment having been imposed upon similar grounds on an inheritance accruing to his brother. On the day of the receipt of this note the legation communicated the intelligence it conveyed to Byczik, who has not since been heard from.

184. *George Nielsen.*

Born at Stubbak, Schleswig-Holstein, February 20, 1862; emigrated to the United States April 4, 1881; naturalized September 23, 1887; returned to his native place about the end of November following. This case was brought to the attention of the legation by instruction from the Department of State No. 296, of March 15, 1888, upon the receipt of which the legation intervened in behalf of Nielsen with the foreign office, presenting the facts and his complaint, which was that within about a week after his arrival on a visit to his old home he was arrested, taken before a court, detained in custody for an hour and a half, told he must pay a fine of 160 marks, the grounds therefor not being stated, further informed that he would have to serve in the German army, and his citizen paper and American passport taken from him. Being then allowed to go to his home, he left the country on the following night and returned to the United States without having regained his papers.

The legation requested the foreign office to cause the judgment, imposed presumably for violation of military duty, to be removed, his papers to be returned to him, and all proceedings against him to be desisted from, if the facts should, upon investigation, be found to be as stated. In an answering note from the foreign office dated August 16, following, and received on the 18th of that month, the legation was informed that the judgment of the 13th of May, 1886, imposing on Nielsen a fine of 160 marks for violation of military duty had been remitted, and the collection of the judicial costs incurred desisted from, and further, that Nielsen's papers had on the 2d of January, 1888, been handed to his father for return to the son.

185. *Julius Diamond.*

Born about the year 1843, at Wreschen, Prussia, presumably; emigrated thence in 1857, at the age of fourteen years, to the United States; naturalized (?) In a communication dated June 6, 1888, received on the following day, Diamond presented to

the legation the facts in the case, which were immediately communicated to the foreign office, and were as follows: He returned to Wreschen on a visit about the 1st of June, and was at once requested to identify himself before the burgomaster, which he did, leaving with that official his citizen papers. On the 5th of that month he was again called before that officer, who returned to him his papers, but at the same time handed him an order from the "Landrath" requiring him to leave Prussia within eight days. Immediately thereafter Diamond called on the official who had issued the order complained of, and urged the withdrawal of the same, informing him at the same time that he had always conducted himself peaceably; that he was not engaged in any business in this country, but had simply returned to it on a visit to his family and friends; that he intended to remain here but a short time, and that he knew of no reason why such order had been served on him. His request was, however, not complied with, although his American citizenship was acknowledged. In view of these circumstances the legation expressed its confident hope that, the facts being found upon investigation to be as stated, the foreign office would cause the order of expulsion to be withdrawn, and the proceedings taken against Diamond to be suspended by telegraph or otherwise pending such investigation. Diamond's American passport was inclosed, with the statement that his certificate of naturalization was understood to be at Wreschen, and that, to its regret, the legation had not, owing to the urgency of the case, been able to present as full a statement of the facts as it could desire. On the same day the legation informed Diamond of the action taken in his behalf, and also reported the case to the Department of State with dispatch No. 623, of June 7, 1888. With instruction No. 331, of June 27, 1888, the Department expressed its satisfaction with the action taken by the legation in Diamond's behalf. After some further correspondence between the legation and Diamond relative to his case, from which it appeared that he was being subjected to no further molestation, the foreign office, in an answering communication, dated June 15 and received on the 17th of that month, informed the legation that it was considered admissible to permit to Diamond a further sojourn at Wreschen, and that the appropriate authorities had been instructed to desist for the present from carrying out the measure complained of. Diamond was at once informed of the favorable decision reached in his case, as was also the Department of State with dispatch No. 642, of July 18, 1888. With instruction No. 348 of August 6, 1888, received on the 18th of that month, the Department expressed its satisfaction with the decision reached in this case. On the occasion of a visit paid by Diamond to this city, he called at the legation to express his thanks for the measures taken in his behalf and his great gratification at the result attained. Nothing further has been heard from him, and if not at Wreschen still, he is presumed to have remained there as long as he found it convenient to do so.

186. *Hermann Oertel.*

Born at Burgstadt, Saxony, September 21, 1865; emigrated to the United States in April, 1882; naturalized December 29, 1887. The necessary information having been secured, after some correspondence with the consulate of the United States at Chemnitz, through which attention was called first to the case, the legation, on the 3d of July, 1888, intervened in Oertel's behalf, communicating to the foreign office, in addition to the above-mentioned facts, the following statements and complaints: On the 10th of June, 1888, Oertel returned to Germany to visit his parents residing near Chemnitz, with the intention of returning to the United States in about a month. On July 2, following, a court at Chemnitz condemned him to pay a fine of 150 marks or suffer imprisonment for the period of thirty days for alleged violation of military duty. The local authorities had since informed Oertel that he might expect to be arrested and imprisoned at any moment in default of payment of the fine, although he had protested against the course taken against him both before and since his condemnation referred to, appealing for immunity from the punishment adjudged to his rights as an American citizen, and submitting the evidence of such citizenship. The legation inclosed Oertel's certificate of naturalization and asked that the case be investigated and the fine canceled, if the essential facts should be found to be as stated, and that, in view of the urgency of the case, Oertel being liable to be arrested and imprisoned at any moment, telegraphic instructions might be considerately sent to the local authorities at Chemnitz, directing the suspension of proceedings against him pending the investigation. The legation on the same day informed Oertel through the consulate at Chemnitz that intervention had been made in his behalf. In an answering note, dated July 28, and received on the 30th of that month, the foreign office informed the legation that the appropriate local authorities had been instructed to desist from the collection of the fine and costs imposed. Oertel, who had in the meantime been subjected to no further annoyance, was on the same day informed by the legation of this favorable decision, as was also, with dispatch No. 647, the Department of State, which thereafter, with instruction No. 354, of August 14, 1888, expressed its satisfaction with the result reached in the case.

187. *August Klein.*

Born at Kaiserslautern, Bavaria, December 27, 1862; emigrated to the United States about the year 1870; naturalized October 10, 1884. The attention of the legation was called to this case by the American consul-general at Frankfort-on-the-Main on July 4, 1888.

On the same day the legation applied to him for the necessary facts, which were supplied on the 12th of that month, when the legation intervened with the foreign office in Klein's behalf, inclosing his certificate of naturalization, and submitting his further statements and complaint, which were as follows: On the 29th of May, 1888, Klein came to his native place on a brief visit intending to return to the United States about the 15th of July following. On the 29th of the preceding month he was arrested by the authorities at Kaiserslautern, and notwithstanding his appeal to his treaty-rights as a citizen of the United States, and the submission of the evidence of such citizenship, compelled to pay a fine of 300 marks for avoidance of military duty, adjudged by the land-court at that place. As the facts submitted showed clearly the *bona fide* character of the emigration and naturalization of Klein, the legation expressed the hope that the fine would be remitted, and the amount paid returned to Klein as speedily as possible as he needed it to defray the expenses of his return to America, which he must otherwise defer, to his great inconvenience. The legation on the same day notified Klein that it had intervened in his behalf. In an answering note, dated the 20th and received on the 21st of August following, the foreign office informed the legation that instructions had been given to the local authorities to desist from collecting the amount of the fine and costs in the case, adding that Klein's statements to the legation were inaccurate, the fine having been judicially adjudged before his return from America. That, while he had been arrested, he had been immediately discharged after proving his American citizenship. Nor had he been compelled to pay the fine of 300 marks. The amount, since returned to them, had been voluntarily deposited with the authorities by his relatives in the Palatinate as security for the fine. On the same day the legation notified Klein through the consulate-general at Frankfort-on-the-Main of the result reached, and called his attention to the inaccuracy of his statements to the legation. Under date of 23d of that month the consul-general at Frankfort-on-the-Main informed the legation that its notification had been forwarded to Klein, who had in the meantime returned to the United States.

188. *John Goldschmidt.*

(Case of fine unfinished.)

189. *Henry (Hans) F. Jessen.*

Born at Tyrstrup, Schleswig-Holstein, September 19, 1863; emigrated to the United States in August, 1880; naturalized October 21, 1885. The above facts and the further statements and complaint submitted by Jessen on the occasion of a personal call on August 15, 1888, and on the same day presented, together with the evidence of his American citizenship, to the foreign office, by the legation, were as follows: Jessen returned on the 27th of June, 1888, to his native country to make a brief visit to his parents at Tagkjer, in North Schleswig. He at once notified the local authorities of his arrival and of the purpose of his visit, presenting to them at the same time the evidence of his American citizenship, which was, he subsequently learned, transmitted to the Royal Government at Schleswig. Within two weeks from the time of his arrival he was ordered to leave Schleswig-Holstein within twenty-four hours, no cause being assigned for such action. With this order he immediately complied, and now requests permission to return to Tagkjer for the brief period of from one to two weeks, in order that he may see his parents once more before his return, early in September next, to the United States. Jessen declares that he has by his personal demeanor given no cause of offense to the authorities of his native country. In view of these circumstances, of the great distance he has come to visit his parents, it is hoped that his request will not be refused, if upon investigation the essential facts are found to be as stated. As the granting of the permission sought would, in view of Jessen's early return to the United States, prove illusory unless soon granted, the legation requested that it might at an early day be informed of the result of his application. With dispatch No. 659, of August 20, 1888, the legation reported to the Department of State its action taken in behalf of Jessen. Under date of September 7 following, Jessen informed the legation that he was back at Tagkjer with his parents, the authorities having granted him an extension of sojourn in accordance with his wish. He thanked the legation warmly for its successful action in his behalf. On the 19th of that month, in an answering note, dated the preceding day, the foreign office confirmed this intelligence, which was communicated to the Department by the legation with dispatch No. 666, of September 19, 1888, and also to Jessen who renewed his thanks to the legation.

No. 476.

Mr. Rives to Mr. Pendleton.

No. 371.] DEPARTMENT OF STATE,
Washington, October 20, 1888.

SIR: Your dispatch No. 675, of the 4th instant, stating that the assessment of a communal income tax on Mr. S. R. Honey has been discontinued and that the amounts already paid are to be refunded, has been received and read with satisfaction.

I am, etc.,

G. L. RIVES,
Acting Secretary.

No. 477.

Mr. Coleman to Mr. Bayard.

No. 690.] LEGATION OF THE UNITED STATES,
Berlin, November 9, 1888. (Received November 26.)

SIR: I have the honor to inclose herewith the application, together with the correspondence, between this legation and Mr. Black, our consul at Nuremberg, relating thereto, of Mr. Solomon H. Ulmer, a naturalized citizen of the United States, for a passport, to include his wife and minor son, Milton.

The propriety of issuing the passport applied for seems so doubtful, in view of all the circumstances set forth in the application and correspondence referred to, and especially in view of the strongly-expressed opinion of Consul Black that the applicant has no intention of returning, and his son, born in Germany, of going to the United States with a purpose of residing and performing the duties of citizenship there, that I deem it best to refer the case to the Department of State for its consideration and decision.

The case of Ehrenbacher, to which Consul Black refers in inclosure No. 1, will be found reported in dispatch No. 111, of May 10, 1875, and that of his son in dispatch No. 555, of December 26, 1887, of this legation.

I have the honor to be, etc.,

CHAPMAN COLEMAN,
For the Minister.

[Inclosure 1 in No. 690.]

Mr. Black to Mr. Pendleton.

UNITED STATES CONSULATE,
Nuremberg, November 7, 1888.

SIR: Inclosed I beg to hand you application of Solomon H. Ulmer for a passport for himself, wife, and son Milton, aged seventeen years. Under this cover I also inclose Ulmer's citizen papers, and he informs me that his old passport has been mislaid, which accounts for its not being forwarded.

Ulmer, you will notice, left the United States in 1858, came direct to Nuremberg, where he has ever since resided. His son Milton was born here, as you see, and he has never been to the United States and in my opinion never will go there.

Ulmer, of course, has no domicile in our country, and this part of his application he could not fill out. He declares he desires this passport for the purpose of going to the

United States. I am satisfied in my own mind he does not intend going there. You can see he is a man of seventy years of age, who has lived in Germany all his life, excepting the twelve years he was in the United States, making enough money to return here and reside, and it is very unlikely that he would return there at this late date to take up a permanent abode in the midst of strangers and leave all his friends here. The fact is, he really wants this passport to exempt his son from the military. He told me, the first time he came to see me about it, that his son was now coming to military age, and he wanted to get for him a passport, as he was an American citizen by reason of his father's citizenship. I told him this when he signed this paper; but he stammered out, No, he wanted to go to the United States to put his son with Edison. I asked him when he would start; he said he thought he would go over in the course of one or two years. This, coupled with the fact of his claiming thirty years as a temporary residence in Nuremberg, struck me as so absurd, that I was on the point of refusing his affidavit; but I thought it best to refer it to you. He was here a few days before he made this application to sign these papers, but the gentleman whom he brought as a witness, after reading his affidavit, refused positively to certify that to the best of his knowledge and belief the facts set forth were true, and the one, Schmidt, who has signed it, said that he could only say as to the facts from what Ulmer had told him.

This man is not entitled to a passport as much as Ehrenbacher, who certainly had no claim, and who was refused one in 1875, after having been living here but six years. He belongs to a class who in my estimation value their citizenship only for the benefits it may bring them, contributing nothing to the support of our Government, and possessed of no sympathy for us as a nation or as a people.

The fee of 4.20 marks I have transmitted by postal money-order.

I have, etc.,

WM. J. BLACK.

[Inclosure 2 in No. 690.]

Mr. Coleman to Mr. Black.

LEGATION OF THE UNITED STATES,
Berlin, November 9, 1888.

SIR: I have to acknowledge the receipt of your communication of the 7th instant, inclosing the application of Mr. Solomon H. Ulmer for a passport for himself, wife, and minor son, and to inform you that it is deemed best, in view of all the circumstances of the case, to refer the same to the Department of State for its consideration and decision.

Please inform Mr. Ulmer that this will be done, and return to him at the same time his certificate of naturalization, herewith returned.

The decision reached in this case will be duly made known to you when communicated to this legation.

By direction of the minister.

I remain, etc.,

C. COLEMAN,
Secretary of Legation.

No. 478.

Mr. Bayard to Mr. Coleman.

No. 387.] DEPARTMENT OF STATE,
Washington, December 4, 1888.

SIR: Your dispatch No. 690, of the 9th ultimo, in relation to the application of Mr. Solomon H. Ulmer for a passport, has been received.

It appears by Mr. Ulmer's sworn statement that he was born in Bavaria in 1819, and came to the United States in 1846, when twenty-seven years of age. He was naturalized in 1853, and in 1858, less than five years after his naturalization and less than twelve after his coming to the United States, he returned to his native land, where he has since continuously resided for more than thirty years, without exhibiting any sign of an intention ever to return to this country.

Now, however, when his son, born in Germany, and who has apparently never been in the United States, has arrived at the age of nineteen years and is subject to call for military service, Mr. Ulmer applies for a passport as a citizen of the United States, to include his son, for the alleged purpose of going to the United States "in the course of one or two years."

By the treaty of naturalization between the United States and Bavaria it is provided that if a citizen or subject of one of the contracting parties, naturalized in the dominions of the other party, return to his country of origin without the intention to go back to the country of his adoption, he shall be held to have renounced his naturalization, and a two years' residence in the country of origin, after return thereto, is made *prima facie* evidence of such renunciation.

Upon the facts stated the Department is of opinion that Mr. Ulmer long since renounced his American citizenship, and that to grant a passport to him, as now requested, would be to promote an obvious abuse of our naturalization, and to commit a breach of that fair dealing which should characterize the observance of treaty obligations.

I am, etc.,

T. F. BAYARD.

CORRESPONDENCE WITH THE LEGATION OF GERMANY AT WASHINGTON.

No. 479.

Prince von Bismarck to Baron von Zedtwitz.

[Copy and translation left at the Department of State December 9, 1887, by Baron von Zedtwitz.]

[Translation.]

BERLIN, *November* 18, 1887.

You have already been instructed on a former occasion to draw the attention of the Secretary of State, Mr. Bayard, to the anti-German attitude observed by the American consul-general at Apia, Mr. Sewall, during our action against the Samoan King Malietoa. We have had a similar experience with the predecessors of Mr. Sewall on all occasions whenever we endeavored, in view of the unsettled state of affairs on the Samoan Islands, to obtain better guaranties for the protection of the there living German subjects and of their commercial interests. The reports of our representatives in Apia of the last seven years repeatedly contain the complaint that their American colleagues show a tendency to interfere with our relations to the Samoan Government and to imbue the latter with distrust of Germany. The endeavors made by Germany in the interest of the establishment of a lawful and orderly condition of affairs on those islands have, without exception, met with the opposition of the American consular representatives.

At the outbreak of hostilities amongst the natives in 1881, when the commander of His Imperial Majesty's ship *Möwe*, on the requisition of the German consul at Apia and in agreement with the Samoan Government, as well as with the municipal administration, occupied Apia in order to protect the foreign settlement, the American consul, Mr. Dawson, protested against that measure, and caused the editor of an Apia paper, with whom he was connected by friendship, to publish a series of

articles cantaining injurious statements against the German vice-consul and the commander of His Imperial Majesty's ship *Möwe*.

The American Consul Canisius has been pointed out to us as the author of two letters which Malietoa addressed to His Majesty the Emperor, under the 18th and 25th of May, 1885. These letters contained complaints with regard to the imperial representative in Apia, the demand of his recall, and an insulting critique of German military measures. The successor of Dr. Canisius, Mr. Greenebaum, made opposition to the German representative in everything, encouraging at the same time Chief Malietoa and his provoking attitude towards Germany. He arbitrarily announced, in a proclamation issued on the 14th of May, 1886, the American protectorate over the Samoan Islands, and hoisted, as a sign thereof, the American flag over the Samoan flag, a proceeding which was disavowed by his Government. The enroachments of the present representative of the United States in Apia have, as you know, repeatedly given occasion to me to complain of his conduct to Mr. Bayard.

In view of the so friendly relations which have continued undisturbed for more than a century between Germany and the United States, it is remarkable that on that remote realm of islands, where neither America nor Germany has any political interests to defend, we are exposed to the continual ill-will of a series of American representatives. There are no local commercial rivalries which could explain such a fact.

In this regard our relations to Great Britain are by far more difficult. The contiguity of the English and German possessions at the Cape, in Zanzibar, in West Africa, New Guinea, and in different parts of the South Sea leads to rivalries which can not always remain free from frictions. Great Britain has much more occasion to be jealous of the extension of German influence, and has, besides, to take into consideration the claims and prejudices of her colonies, which, grown up under the idea of a British monopoly of ruling in transatlantic countries, are inclined to look upon foreign neighborship as an interference with the sphere of their interests, or as a menace to their security. Especially in the case of Samoa the British Government has, on account of the covetousness repeatedly shown by the New Zealanders of obtaining possession of those islands, to contend with unusually great difficulties with regard to a just and benevolent settlement of the there existing difficulties with us. Nevertheless we are there in much better relations to England than to America, although the commercial interests of Great Britain in Samoa, though smaller than ours, are more considerable than those of the United States.

The American element has not aspired to a considerable commercial success on the Samoa Islands. The value of imports in Apia which have gone through the hands of American merchants amounts, according to the last statistical statements of 1885, to $92,000; that of German imports to $292,000. In the exports the German merchants participated with $280,000, the American merchants with only $31,000.

The only large American firm in Apia, Grevesmühl, Crawford & Co., is now under the management of two Germans, the American partner, who lives in San Francisco, having lately withdrawn. At the end of the last year the staff of the German firms in Apia consisted of forty-six employés, that of the American firms only of seven. The German firms had established, outside of Apia, in Upolu, and on the other islands of the Samoan group, fifty commercial stations and smaller trading places—the American firms not a single one. The German firms in Apia owned, in 1885, 21 ships, with 1,519 tons, for the trade in the South

Sea, while the American firms had no vessels of their own. The subjects of the Empire had brought, by systematical establishment of plantations, 7,985 acres under culture, while American plantations do not exist, and only about 100 acres of the property owned by American subjects are cultivated. At the beginning of 1886 there were eighty-one Germans and twenty-four Americans residing within the municipal district of Apia. Houses and property owned by German subjects represent, as shown by the list of assessments of municipal taxes, a value of $175,765; those of American citizens only a value of $32,000.

Germany has never made use of this mercantile preponderance of her subjects in Samoa to secure commercial privileges, as the United States have recently done in Hawaii by the ratification of the lately renewed reciprocity treaty of January 30, 1875. We have always maintained the principle of equality of rights of nations in Samoa, and never aspired to political advantages. Moreover, on the occasion of the latest action against Malietoa, the continuation of whose government was incompatible with our dignity, we have given, before the deposition of said chief, to both the English and the American Governments the assurance, against which no doubt has been raised, that it is not our intention to change anything with regard to the relations of the treaty powers to Samoa.

I fail therefore to find *in the facts themselves* any reasons that could explain the continual ill-will shown towards us in Samoa by the American representatives of the past and of the present, and I should be thankful to Mr. Bayard if he would lend me his assistance in the investigation of this strange fact. Should my supposition be right that those difficulties have their origin in the personal disposition of the American representatives in Apia, and not in their instructions, I am convinced that the American Government will cause the necessary redress to take place.

It can not be conceived that consular officers who do not respect the limits of their task, and who cause by their conduct without reason international ill-feeling (*verstimmung*) between countries entertaining friendly relations to each other, act in the sense of their Government, with which Germany since the foundation of the American Union has been connected by traditional friendship.

We come, therefore, readily to the conviction that it will suffice to submit to the attention of his excellency the Secretary of State a coherent review of the attitude observed by the different American consuls in Samoa in order to be enabled to hope for the redress of a misunderstanding which has no foundation in the actual reciprocal friendly relations.

You are requested to read this instruction to the Secretary of State, Mr. Bayard, and to leave him a copy of it.

V. BISMARCK.

[Inclosure 1.]

Account of proceedings in Samoa.

After the declaration of war against Malietoa by the imperial consul at Apia the American consul-general, Mr. Sewall, offered his services to cause Malietoa to voluntarily surrender himself.

Consul Becker entered therefore in communication with Mr. Sewall, but declared at the same time that the military measures would not be suspended by the negotiations. Mr. Sewall, however, did not take any further steps to effectuate Malietoa's

surrender, who consequently gained considerable time, and his further attitude corresponded in no way to the friendly disposition which he had manifested by the said offer. He issued a proclamation by which he emphatically declared, in the name of his Government, that he continued to consider Malietoa to be King of Samoa.

This proclamation naturally encouraged Malietoa, who was then, according to reliable information, just about to surrender himself, and he consequently desisted from his decision.

Moreover, the natives were cautioned not to recognize Tamasese and not to send delegates to the assembly called by the latter to a meeting on the 15th of September. Meetings of followers of Malietoa have taken place in Mr. Sewall's house, and Malietoa is said to have been there several times at night.

Mr. Sewall protested in the name of the United States against all measures taken by German officials in the interest of the maintenance of peace and order as against violations of the treaties.

On the 26th of August the regular meeting of the municipal council was going to take place. Mr. Sewall ordered, with reference to Article VIII of the municipal convention, Municipal Judge Martin to hoist the flag of Malietoa, and declared at the same time that the municipal council could only meet under that flag. Consul Becker pointed out that Article VIII gave a right to the Samoan Government, but not to the consuls, to hoist the Samoan flag, and that he could, of course, not attend a meeting under the flag of a chief who was in war with Germany. He referred to the fact that never at any meeting held in the course of this year, a flag had been hoisted on the municipal building. As Mr. Sewall insisted upon his order being carried out, no more municipal sessions could take place.

Even the establishment of Tamasese in Mulinuu, the former seat of government of Malietoa, was declared by the American consul-general as a violation of the municipal convention. Moreover, he protested against the proclamation issued on the 27th of August by the commander of the German squadron, and subjecting, in the interest of general security, the circulation on public streets to certain restrictions. Inciting false rumors were put into circulation that the Germans intended to burn down Apia; a considerable part of the population was induced by these rumors to abandon their huts and to flee into the forests.

[October 9.]

The American consul-general has lowered the flag of the consulate after Malietoa's surrender. Municipal sessions have not taken place. English and American subjects, especially the representatives of the firm McArthur & Co., of New Zealand, avail themselves, assisted by their consular agents, of every opportunity to create conflicts with the Samoan Government and with the Germans. Englishmen and Americans have, in cases where the ownership of real estate was disputed between them and Germans, surrounded such property with fences and tried to secure to themselves the possession thereof by hoisting the national flags; the same has been done on several roads, even at the sea-shore, both of which are to be considered as public property.

Consul-General Sewall has asserted in a general way, and also in conversation with our consul, that it was his intention to hold Tamasese responsible for the violation of the treaties, which he thinks has taken place, as soon as he would have the power to do so.

[Apia, October 13.]

On the request of the Samoan Government, Mr. Martin has arrested, on the 11th of October, a Samoan subject named Tamasen, who was accused to have stolen the line of the flag-mast before the Government building in Apia. On the evening of the same day, after 10 o'clock, Consul-General Sewall proceeded to the municipal building and demanded from the guardians that the prisoner be set at liberty. As the latter refused to comply with his demand, he put himself into the possession of the keys of the prison and liberated said Tamasen in person. On the next morning Mr. Sewall informed Mr. Martin that he was no longer entitled to act as magistrate, and that he had to leave the municipal building. Mr. Sewall has not informed our consul of his action. The municipality is consequently suspended.

A continuation of such a state of affairs would have greatly endangered life and property of the German subjects. There was no protection by the police, the foreigners did not recognize the native government, and the latter is not strong enough to maintain order. If the American consul-general arbitrarily liberates a prisoner, there seems to be good reasons for expecting excesses of a more serious character.

[Inclosure 2.]

*Mr. Sherwood to Selu, Samoan Secretary of State.**

AUCKLAND, NEW ZEALAND,
February 25, 1887.

MY DEAR SELU: I have much pleasure in writing to you to let you know my thoughts and to inform you how matters are progressing. I have been waiting for the particulars of the securities *in re* the loan. They have just come to hand, and I can now proceed with the business and will have it completed as speedily as possible. Upon this head you will soon hear from me again. I have had many interviews with your great friend, Sir George Grey, and he is much pleased with your actions with regard to myself; he is highly pleased that you have placed your trust in me.

Sir George desires me to inform His Majesty King Malietoa that he is much pleased with what he has done and is of opinion that it will be the best thing for the King, the Government and people of Samoa. Sir George desires me specially to inform you that he sees no reason to alter his opinion as to what position Samoa should occupy and which he, Sir George, communicated to His Majesty in a letter some time ago. Sir George further wishes me to state that no convention or agreement of any description should be entered into with any nation or state, as the great days are coming for Samoa and nothing should be done to in any way hinder it.

Sir George is earnestly desirous of the welfare of the Samoan nation. In him you have a true and powerful friend. And you will soon feel the good benefit of his great friendship. He further desires me to ask you to write to the President of the United States of America and to thank him for his kindly allusions to Samoa, made in the Presidential message, delivered in America on January of this year. I send you a draught of the letter to send; please let it be signed by His Majesty and sealed.

Sir George brought to me Lord Sandhurst, who is a great man from England. He has been with me several times and is taking great interest in all matters affecting Samoa and will do everything to help me for your good; he is very powerful and wealthy and will be another great friend of Samoa.

I have made most of the arrangements about the loan, and I want to get the purchase of Weber's land completed, as upon that land the new Government buildings will have to be erected. I have had plans made for these buildings, which will be large, handsome, and convenient, and worthy of the Samoan Government. I have had patterns of uniforms for police and troops, and they will be forwarded for your approval; I am now having a design for new coinage. I intend to take a steamer to Samoa, which will be useful to the Government for rapidly visiting any part of the islands when such necessity arises. This vessel will be of great service in carrying out the laws of the Samoan Kingdom. All these things will be done and well done, and without trouble to you, but, of course, you must be prepared to exercise some patience. Great works can not be done rapidly. My great desire and intention is that all shall be done well, so that you, as a nation, will have the greatest benefit from it all, and that your nation may be looked up to and respected.

Sir George Grey informs me that he has heard of the visit of the Hawaiian embassy to your Kingdom, and expresses the hope that no convention may be made with them. I assured him that you would not do so; as while matters were in their present state you would enter into no arrangements. He was much pleased, and said if such a thing were attempted it would seriously interfere with your future prospects, and it would be most unwise for you in any way to be attached to a weak nation. No matter how glowing the prospects might be represented, it could only end in disaster to you. All this Sir George desired me to tell you. I informed him that I would do so, though I had no fear of your doing anything that would bring trouble to you. I said I should rely upon your honor as chiefs and rulers to do nothing so foolish. Sir George said: "Yes; I know the honor and pride of the chiefs of Samoa is great, and you do well to rely upon it." He then requested me to convey to His Majesty King Malietoa and to his chiefs his warmest regards, and to tell you to remain firm in your independence; that good and powerful friends are interesting themselves in your welfare, and that their efforts will soon bear good fruits, and that all trouble in and about Samoa will cease, and that you will all soon take the great position you are naturally entitled to.

I need not tell you how thoroughly I concur in these sentiments, and I am earnestly looking to bring all these matters about. Will you kindly convey to His Majesty my profound regard and an earnest wish for his welfare? Will you also give my best regards to all the members of the Government, and tell them I shall be with them all again as soon as I have your business arranged?

With best wishes, I am, etc.,

SHERWOOD.

* Found in Malietoa's house when seized by the Germans.

[Inclosure in inclosure 1.]

Draught of letter to be sent to the President.

To His Highness the President of the United States, greeting:

I, Malietoa, the King of Samoa, have heard of the good words spoken by you to your Parliament in January concerning my Kingdom. I am much gratified and pleased at the good feeling you express towards my Kingdom, and assure your highness that my regard for the United States is very great, and my wish and the wish of my people is that we shall always be firm friends.

I am,
[SEAL.]

MALIETOA,
King of Samoa.

Dated at Government House
Witness:
SELU,
Secretary of State.

[See Presidential message, January, 1887.]
The President said: "I have good reason to think that England and Germany will join us in upholding autonomy of Samoa."
Autonomy—independence.

SHERWOOD,
For the Secretary of State.

No. 480.

Baron von Zedtwitz to Mr. Bayard.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, November 19, 1887. (Received November 21.)

Mr. SECRETARY OF STATE: According to advices which I have just received from the Imperial Government, Mr. Pendleton, the envoy of the United States at Berlin, has communicated to the Chancellor of the Empire the instructions received by him to express to His Majesty the Emperor the sympathy felt with the Imperial family by the President and people of the United States on account of the severe illness of His Imperial Highness the Crown Prince.

His Majesty is deeply moved by the fervent and touching words in which the friendly sentiments and good wishes for the Imperial house and for Germany are expressed.

In pursuance of instructions transmitted to me by the Chancellor of the Empire in obedience to the command of His Imperial Majesty, I have the honor, Mr. Secretary of State, to convey to you the expression of His Majesty's heartfelt gratitude for the sympathy felt by the President and people of the United States of America with our Royal House and the whole country in the deep grief which rests upon both. His Majesty was much gratified to be informed of the sentiments entertained by the great nation with which we are so closely allied.

Accept, etc.,

V. ZEDTWITZ.

No. 481.

Baron von Zedtwitz to Mr. Bayard.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, December 23, 1887. (Received December 27.)

Mr. SECRETARY OF STATE: During the period between June 1 and October 31, 1888, the Third International Exhibition of Art will be held

by the Artists' Association of Munich, under the patronage of his Royal Highness the Prince Regent, and with the co-operation of the Royal Bavarian Government.

As the first exhibition of art at Munich was held a century ago, the exhibition of the coming year will be a jubilee exhibition, and the Artists' Association of Munich is consequently very desirous that it shall prove a great success.

The experience which the promoters of the exhibition have had, the improvement in art, as well as the material success achieved, and the world-wide reputation enjoyed by Munich as an art center, furnish ground for the hope that the zealous efforts and the earnest co-operation of all concerned will, on this occasion, also achieve an encouraging result and promote the general welfare.

The co-operation of the non-German governments is of special importance to the successful accomplishment of this international enterprise, and the Association of Artists of Munich has, therefore, requested that the enterprise may be brought to the notice of foreign governments, and warmly commended to their favorable consideration.

In obedience to instructions received, I have the honor hereby to convey the request addressed by the Royal Bavarian Government to the Government of the United States, that the latter will bring this exhibition to the notice of academies and artists in the United States, and urge them to send their productions to it; and that it will, on its part, encourage the enterprise in every way possible.

I have the honor herewith to send twenty copies of the programme* of the exhibition, together with their annexes, and I avail, etc.

V. ZEDTWITZ.

No. 482.

Baron von Zedtwitz to Mr. Rives.

IMPERIAL GERMAN LEGATION,
Washington, December 29, 1887. (Received December 29.)

DEAR MR. RIVES: With reference to our conversation of yesterday, I have the honor to inclose herewith a copy of the "Temporary regulations for the prevention of the introduction of infectious diseases at the Corean treaty ports."

These regulations have been provisionally accepted by the representatives of the treaty powers at Seôul. The modifications we would desire to make I had the pleasure of pointing out to you yesterday.

Believe me, etc.,

V. ZEDTWITZ.

[Inclosure.]

Temporary regulations for the prevention of the introduction of infectious diseases at the Corean treaty ports.

1. Any vessel, Corean or foreign, arriving from a locality where infectious disease exists, shall temporarily anchor outside the harbor limits and fly a yellow flag at the fore.

2. Such vessel is not to communicate with the shore, or with other vessels, nor to land crew or passengers, pending the arrival on board of the customs quarantine officer.

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*Inclosure, being a programme of the projected exhibition, not printed herewith.

3. Should the quarantine officer be satisfied that there are no cases of infectious disease on board from the commencement of and during the voyage hither, he will grant permission to the vessel to proceed to the usual anchorage, where she will receive free *pratique*.

4. Vessels which have had cases of infectious disease on board during the voyage to a Corean treaty port, shall be required to anchor at such place as shall be indicated by the quarantine officer, at a safe distance from the land; and no communication with the shore, or with other vessels, shall be allowed, except with the sanction of the customs authorities charged with the carrying out of these regulations.

5. Subjects of infectious disease shall be sent either to a cholera hospital on shore, or to such other suitable place as the quarantine officer may indicate. The bodies of the dead shall be buried at such time and place and in such manner as the quarantine officer shall point out.

6. After final disposal of patients and dead bodies, as indicated above, the quarantine officer shall disinfect both crew and passengers, who may then receive written permission to land through him. That officer will also advise the commissioner of customs as to the vessel's admission to free pratique.

7. The captain, passengers, or crew of vessels placed in quarantine shall be given every facility by the customs to appeal in writing to their national representatives against the measures taken by the quarantine officer; but pending the inquiry and decision of the foreign representative in the case these regulations must be observed.

8. Any vessel or person infringing these rules shall be dealt with, at the instance of the commissioner of customs, by the proper consular authorities.

9. It shall rest with the superintendent of trade and the commissioner of customs, in conference with the consuls of the treaty powers, to decide whether or not the port from which any vessel comes is infected, the decision of the majority ruling. But if any port has been declared infected by its own government, these rules shall be enforced by the commissioners of customs at Corean ports against all vessels coming from such port.

10. The cost of establishing a hospital for infectious diseases and its daily expenses shall be defrayed by the Corean customs. But a daily charge for food, medicine, and attendance for patients shall be made against the vessels concerned through their respective consuls.

11. These regulations are experimental, and may be revised or amended by the Corean Government in concert with the foreign representatives. If discontinued by the Corean Government, two months' notice will be given to the foreign representatives who have given their consent to them.

No. 483.

Mr. von Alvensleben to Mr. Bayard.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, January 24, 1888.

MR. SECRETARY OF STATE:

On the 25th of August, 1887, the chargé d'affaires of the United States at Berlin, acting under instructions from his Government, invited the attention of the Imperial Government to an act of Congress approved June 19, 1886, entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes."

In the letter which he addressed to Count Berchem, then acting imperial secretary of state for foreign affairs, the chargé d'affaires of the United States pointed out that the provisions of said act were broad enough to cover either a reduction or a complete abolition by reciprocal action of tonnage and equivalent charges on navigation, and that it was open to any foreign country in all or any of whose ports a less charge is made than that now imposed in the ports of the United States, to obtain forthwith a reduction of the charge in the United States on ves-

sels coming from such port or ports to an equality with that levied in the port or ports designated.

In accordance with instructions which I have received from my Government, I now have the honor to state, Mr. Secretary, that no tonnage or light-house dues, or any equivalent tax or taxes whatever, as referred to in said act of Congress of June 19, 1886, are imposed upon American vessels entering the ports of Germany, either by the Imperial Government or by the governments of the German maritime states, and that vessels belonging to the United States of America and their cargoes are not required, in German ports, to pay any fee or due of any kind or nature, or any import due higher or other than is payable by German vessels or their cargoes.

I have, consequently, the honor to respectfully ask that you may be pleased, Mr. Secretary of State, to cause a proclamation to be issued by the President of the United States, similar to that issued on the 22d of April, 1887, in favor of the navigation of the Kingdom of the Netherlands, and setting forth that the collection of the whole of the duty of 6 cents per ton, not to exceed 30 cents per ton per annum (which is imposed by section 11 of the act of Congress of June 19, 1886), upon vessels entered in the ports of the United States from any of the ports of Germany, shall be suspended, and that such suspension shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States and their cargoes shall be continued in the ports of Germany.

At the same time I beg to state, while presenting the above declaration, that the Imperial Government reserves to itself all rights and privileges heretofore claimed under treaty stipulations, with regard to the treatment of German vessels entering American ports.

The careful examination of the laws and regulations relating to navigation of the different German states bordering on the sea having delayed the reply of the Imperial Government to the invitation of the United States Government, although the same state of affairs with regard to the treatment of vessels entering German ports was, as I had the honor to point out in my letter of February 15, 1886, already in existence on and before the date of the approval of the act of Congress of June 19, 1886, I trust that the United States Government will deem it proper that the tonnage dues or equivalent taxes imposed upon and levied from German ships in American ports since that date be refunded.

Accept, etc.,

H. v. ALVENSLEBEN.

No. 484.

Mr. Bayard to Mr. von Alvensleben.

DEPARTMENT OF STATE,
Washington, January 26, 1888.

SIR: With reference to previous correspondence on the subject, I have the honor to acknowledge the receipt of your note of the 24th instant, in which you inform this Department that your Government does not levy upon American shipping any tonnage or light-house dues, or any equivalent tax or taxes whatever as referred to in the act of Congress of June 19, 1886, and in which you ask that a proclamation may be issued by the President suspending the collection of tonnage duties upon

vessels from the ports of Germany similar to that which was issued in the case of vessels coming from the Netherlands on the 22d of April last.

I take pleasure in informing you, in reply, that in view of the statement contained in your note to the effect that vessels of the United States are exempt from tonnage dues and other charges in German ports, the President will at once issue a proclamation suspending the operation of the act of June 19, 1886, as to vessels coming from the ports of your country, in the matter of tonnage dues.

Adding that the Department reserves for consideration your request to have the tonnage duties levied upon German ships, in American ports, since June 19, 1886, refunded, I beg you to accept, etc.

T. F. BAYARD.

No. 485.

Mr. Bayard to Mr. Alvensleben.

DEPARTMENT OF STATE,
Washington, January 30, 1888.

SIR: With reference to my reply of the 26th instant to your note of the 24th of the present month, relative to tonnage duties on vessels from the ports of Germany, I now have the honor to inclose herewith, for the use of your legation, printed copies of the President's proclamation of the 26th instant, suspending the collection of tonnage duties upon vessels entered in the ports of the United States from any of the ports of the Empire of Germany.

Accept, sir, etc.,

T. F. BAYARD.

[Inclosure.]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas satisfactory proof has been given to me by the Government of the Empire of Germany that no tonnage or light-house dues, or any equivalent tax or taxes whatever, are imposed upon American vessels entering the ports of the Empire of Germany, either by the Imperial Government or by the Governments of the German maritime states, and that vessels belonging to the United States of America, and their cargoes, are not required, in German ports, to pay any fee or due of any kind or nature, or any import due higher or other than is payable by German vessels or their cargoes:

Now, therefore, I, Grover Cleveland, President of the United States of America, by virtue of the authority vested in me by section 11 of the act of Congress entitled "An act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes," approved June nineteenth, one thousand eight hundred and eighty-six, do hereby declare and proclaim that from and after the date of this my proclamation shall be suspended the collection of the whole of the duty of six cents per ton, not to exceed thirty cents per ton per annum (which is imposed by said section of said act) upon vessels entered in the ports of the United States from any of the ports of the Empire of Germany.

Provided, That there shall be excluded from the benefits of the suspension hereby declared and proclaimed the vessels of any foreign country in whose ports the fees or dues of any kind or nature imposed on vessels of the United States, or the import or export duties on their cargoes, are in excess of the fees, dues, or duties imposed on

the vessels of such foreign country, or their cargoes, or of the fees, dues, or duties imposed on the vessels of Germany or the cargoes of such vessels.

And the suspension hereby declared and proclaimed shall continue so long as the reciprocal exemption of vessels belonging to citizens of the United States, and their cargoes, shall be continued in the said ports of the Empire of Germany, and no longer.

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-sixth day of January, in the year of our Lord one thousand eight hundred and eighty-eight, and of the Independence of the United States the one hundred and twelfth.

[SEAL.]

GROVER CLEVELAND.

By the President:

T. F. BAYARD,
Secretary of State.

No. 486.

Mr. von Alvensleben to Mr. Bayard.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, January 30, 1888. (Received February 1.)

Mr. SECRETARY OF STATE: The central committee of the International and Jubilee Art Exhibition, which is to be held this year at Munich, and to which the note of Baron von Zedtwitz, of the 23d ultimo, had reference, has petitioned the Royal Bavarian Government to cause a request to be made diplomatically, of the United States Government, for an appropriation in behalf of the participation of American artists.

Such an appropriation would especially facilitate the formation of an American collective group, whereby the most conclusive evidence could be furnished of the progress and distinctive character which are securing to America an honorable place in the artistic world.

The relations existing between Munich and the United States in the field of art, which are constantly still further developed by the large attendance of young Americans at the Munich Academy of Arts, and by the extensive exportation of paintings might be adduced in support of the greatest possible encouragement on the part of the Government to the participation of American artists in the exhibition. Finally, moreover, the interests of American artists themselves might seem to be directly concerned, since the world-wide fame enjoyed by the International Art Exhibitions of Munich, and the concourse of foreigners of all nations that may be expected on this occasion, will afford them an opportunity to dispose of their productions to advantage, and to acquire celebrity in Europe.

In view of these important advantages, the outlay of public money involved will be the less felt, inasmuch as a small amount will be sufficient for the attainment of the object in view.

The aforesaid central committee has also requested that gratuitous return transportation may be obtained both by other means of conveyance and via the railways of the United States of America, for articles placed on exhibition which may not be sold, and which it may be desired to send home, and the Royal Bavarian Government would be particularly gratified if such gratuitous transportation, which has already been granted by the state railways of Bavaria, and which will probably be granted by the other German railways and by those of other large con-

tinental countries, could also be secured on the railways of the United States of America.

I have the honor, in compliance with the desire of the Royal Bavarian Government, to commend the foregoing petition of the committee of the Munich Exhibition to your kind consideration, and I avail, etc.,

H. v. ALVENSLEBEN.

No. 487.

Mr. von Alvensleben to Mr. Bayard.

IMPERIAL GERMAN LEGATION,
Washington, February 25, 1888. (Received February 25.)

DEAR MR. BAYARD: Referring to my verbal communication of the 17th instant and the papers I left then with you, I have the regret to state that, according to a telegram from Messrs. Oelrichs & Co. in New York, which reached me yesterday, tonnage duties have again been collected on the steamer *Saale* at that port on her arrival from Bremen yesterday.

I should be obliged if, in order to prevent any further misconstruction of the proclamation issued by the President of the United States in favor of the vessels arriving from the ports of Germany, you would cause the proper authorities to be given without delay to understand that such proceedings are in manifest contradiction with that proclamation.

Believe me, dear Mr. Bayard, very sincerely, yours,

H. v. ALVENSLEBEN.

[Papers referred to in Mr. von Alvensleben's note of February 25, 1888.]

1. *Mr. Schwab to Dr. Glavis.*

[Telegram.]

NEW YORK, *February* 15, 1888.

Dr. GLAVIS,
515 *Fourteenth street, Washington:*

Collector continues collection of tonnage dues from us, Commissioner Navigation having instructed him only vessels coming direct from German ports entitled to the suspension. Our steamers do not enter at Southampton. They only run to Southampton water to embark mails and passengers.

GUSTAVE H. SCHWAB.

Treasury circular.

TONNAGE DUES ON VESSELS FROM GERMANY.

No. 19.] TREASURY DEPARTMENT, BUREAU OF NAVIGATION,
Washington, D. C., February 1, 1888.

To collectors of customs and others:

The attention of officers of the customs is invited to the appended proclamation by the President, dated the 26th ultimo, declaring that vessels may be entered in the ports of the United States from any of the ports of the Empire of Germany, with-

out the payment of tonnage dues at the rate of 6 cents per ton, under section 11 of the act of June 19, 1886.

Vessels arriving from any of said ports will hereafter be admitted to entry without the payment of said dues, unless the vessel shall belong to a foreign country in whose ports the fees or dues imposed on American vessels or the duties on their cargoes exceed (1) those imposed on its own vessels or their cargoes, or exceed (2) those imposed on the vessels of Germany or their cargoes.

Certified statements may be forwarded for a refund of the dues on tonnage aforesaid, paid on the entry from German ports, of vessels exempted from the tax, and which were entered at any port of the United States on or since the 26th ultimo.

The proclamation does not apply to vessels which entered before that date, and the dues on such vessels were lawfully levied, and will be retained.

You are requested to notify this office of any tonnage tax or other equivalent tax or taxes which may be imposed hereafter on vessels of the United States in any port of the German Empire, and you will exercise care to levy tonnage dues on all vessels from said ports of any foreign country which discriminates in its own ports against vessels of the United States or their cargoes in favor of its own vessels or of the vessels of Germany.

Information has been received showing that vessels belonging to Great Britain, France, Germany, Denmark, Holland, Sweden, Norway, Belgium, and Portugal arriving in the United States *directly* from the ports of the German Empire may be admitted under the proclamation without the payment of the dues therein mentioned.

C. B. MORTON,
Commissioner of Navigation.

Approved:

C. S. FAIRCHILD,
Secretary.

No. 488.

Mr. Bayard to Mr. Alvensleben.

DEPARTMENT OF STATE,
Washington, February 28, 1888.

DEAR MR. VON ALVENSLEBEN: Responding to your personal note of the 25th instant, I beg to inform you that the question of continued exaction of tonnage dues on the vessels of the North German Line, arriving at New York from Bremen via Southampton, has been brought by me to the attention of the President.

It is now being investigated, and I trust that all cause of complaint by the German vessel-owners will speedily be removed.

Yours, etc.,

T. F. BAYARD.

No. 489.

Mr. Bayard to Baron von Zedtwitz.

DEPARTMENT OF STATE,
Washington, March 8, 1888.

SIR: With reference to your note of the 23d of December last, and Mr. von Alvensleben's communication of the 30th of January, 1888, relative to the invitation to this Government to take part in the International Art Exhibition to be held at Munich during the present year,

I now have the honor to inform you that on the 5th instant the President submitted the invitation in question to Congress for the consideration of that body.

Accept, etc.,

T. F. BAYARD.

No. 490.

Baron von Zedtwitz to Mr. Bayard.

IMPERIAL GERMAN LEGATION,
Washington, March 10, 1888. (Received March 12.)

Mr. SECRETARY OF STATE: I have received instructions from Prince Bismarck to present to the President of the United States the sincerest thanks of the Imperial Government for the warm expression of sympathy of the Government and of the whole people of the United States with the deep sorrow afflicting the Imperial house and Germany.

I have the honor to respectfully ask that you may be pleased to convey these thanks to the President of the United States.

Accept, etc.,

V. ZEDTWITZ.

No. 491.

Mr. Bayard to Baron von Zedtwitz.

DEPARTMENT OF STATE,
Washington, March 19, 1888.

SIR: It was agreed to consider as confidential the joint protocols of the conference I had the honor to hold in this city last summer with Mr. von Alvensleben and the British minister; but in view of all that has since transpired, and the failure thus far to accomplish the ends thus sought for, I suggest that, pending further consideration of the Samoan question, each Government be at liberty to publish the joint protocols.

As the President is about to make a communication on the general subject to Congress I would thank you for as early a reply as may be convenient to this note.

Accept, etc.,

T. F. BAYARD.

No. 492.

Baron von Zedtwitz to Mr. Bayard.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, March 24, 1888. (Received March 24.)

Mr. SECRETARY OF STATE: In reply to your polite note of the 19th instant, suggesting that each of the three treaty powers be at liberty to publish the memoranda of the proceedings of the Samoa conference

held last summer at the Department of State in this city, I have the honor most respectfully to inform you that the Imperial Government is unable to adopt said suggestion. It is rather of the opinion that those protocols, in view of the interruption and hitherto fruitless course of the conferences, which have consequently yielded no definite result, are not suited for publication.

Accept, etc.,

V. ZEDTWITZ.

No. 493.

Baron von Zedtwitz to Mr. Bayard.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, June 2, 1888. (Received June 6.)

SIR: Mr. Pendleton, envoy of the United States of America at Berlin, addressed a note to the Imperial Government on the 10th of April last, in which a question of law was discussed in connection with the use of a piece of property as a pilot station by the former municipality of Apia, and complaint was made of the course pursued in this matter by Mr. Becker, the imperial consul.

In reply the undersigned has the honor to inform the Hon. Mr. Bayard, Secretary of State of the United States, that the information received by the Imperial Government in regard to the legal questions connected with the property agrees, in the main, with the statements contained in Mr. Pendleton's note. The property has hitherto belonged to Chief Patiole, who, on the 6th of August, 1884, leased it to William Coe, who is mentioned in the aforesaid note, and who sublet it to the municipality of Apia. Chief Patiole, moreover, mortgaged the property in question, together with other real estate, by a contract dated February 7, 1885, to the German Trade and Plantation Company of the South Sea Islands, in satisfaction of a debt of $1,800, and a condition of this mortgage was that, in case the debt should not be paid within three years, the property mortgaged should come into the possession of the creditor.

With regard to the course pursued by the imperial consul at Apia in this matter, it appears from the inclosed copy of the correspondence between him and Mr. Sewall, the United States consul-general, that: After the imperial consul had given notice of the desire of his Government to abrogate the municipal convention Mr. Sewall claimed the land, together with the pilot-house which had been erected thereon by the former municipality. Consul Becker did not dispute the claim to the land, but simply stated that the party who was entitled to the piece of land could not claim the surrender of the pilot-house, inasmuch as that belonged to the former municipality, and consequently must be considered as a part of its property, which was still subject to liquidation. The Trade and Plantation Company took possession of the property in February last, in pursuance of the above-mentioned contract. When Mr. Sewall demanded the surrender of the land by the imperial consul the latter declared that he could not summarily dispossess the Trade and Plantation Company, and that he must suggest that the claim to the property be judicially decided.

In the opinion of the Imperial Government Consul Becker's action in this matter was right, for, however the question of law in regard to the ownership of the property might have been decided, he could by no means act arbitrarily against the possessor of the property before any judicial action had been taken.

It is, however, another question whether the American consul-general was authorized to assert a claim to the property. As appears from the inclosed correspondence, he claimed the land, in the first place, for an anonymous citizen of the United States, and subsequently for himself. The distinct statement is first made in Mr. Pendleton's note that the claim was made in behalf of the above-named William Coe. Since, however, Mr. Coe has expressly declared, in a written statement, which is now in possession of the Imperial Government (bearing date of March 2, 1888), that he never asked the American consul-general for his protection in the matter in question, it looks as if Mr. Sewall had acted without authority, and from motives not in harmony with Mr. Coe's interests. With regard to the question whether the German Trade and Plantation Company or William Coe is entitled to the possession of the land, it is admitted that the decision of this point may be doubtful, in view of the fact that it is uncertain which law is to be enforced. According to the common law which prevails in Germany the question would have to be decided in favor of the Trade and Plantation Company, because, according to it, the right of a lessee can not be paramount to that of a mortgagee, and a lessee, when dispossessed, is simply entitled to an action for damages against the lessor. The legal question may, however, remain undiscussed, since William Coe, on the 17th of March last, made an arrangement with the Plantation Company and transferred to that company, in consideration of a certain sum of money, to him in hand paid, all his rights to the property now in question. In point of fact, therefore, the question raised in this matter may be considered as settled.

According to the view taken by Mr. Sewall, and also in Mr. Pendleton's note, the pilot-house erected by the former municipality now belongs to the Trade and Plantation Company. The Imperial Government, on the other hand, still considers the house as belonging to the former municipality, and is consequently of the opinion that the three treaty powers properly have control over it. Since it seems desirable that the building in question should still be devoted to its original purpose, and since the pilot system established by the municipality is still continued by the Samoan Government, the Imperial Government proposes that the pilot-house be turned over to the latter (the Samoan Government) until the establishment of a new communal administration (municipal government?), on condition that the aforesaid Samoan Government bind itself to keep the said pilot-house in proper repair. In view of the efforts made by Tamasese's government to maintain the communal regulations at Apia, the Imperial Government thinks this proposition a reasonable one, and hopes that it will be accepted by the Government of the United States.

The undersigned, etc.,

V. ZEDTWITZ.

[Inclosure 1.]

Mr. Sewall to Mr. Becker.

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA, APIA, SAMOA,
Apia, January 31, 1888.

SIR: Referring to your communication of 18th January, I have to state that while the position of Her Britannic Majesty's vice-consul, Mr. Wilson, renders the negotiations proposed by you impossible, yet that in my opinion it is advisable that some understanding be reached by ourselves respecting the pilot station, the house of which is occupied by a German subject and the land owned by a citizen of the United States.

I should be glad to have your opinion about this matter.

I am, etc.,

HAROLD MARSH SEWALL,
Consul-General.

[Inclosure 2.—Translation.]

Mr. Becker to Mr. Sewall.

IMPERIAL GERMAN CONSULATE FOR THE SOUTH SEA ISLANDS,
Apia, January 31, 1888.

I have had the honor to receive your polite note of this date, and, having made inquiry of the Samoan Government in relation to the matter, I have the honor to make the following reply:

1. The Samoan Government is prepared to become a party to the contract concluded between the owner of the land on which the pilot-house stands and the former municipality and to continue to be the lessee of the property, or to conclude a new contract of lease with the owner of the property. Billie Coe (Pele Toe), the colored man who concluded the contract for the lease with the municipality and who still claims to be the owner of the land, has for a week past been negotiating with Judge Martin for an extension of the contract.

2. If the owner of the land will not extend the lease and will not conclude a new contract with the Samoan Government, the latter will vacate the land without delay, and will remove the pilot-house to another place.

3. With regard to the pilot-house itself, I respectfully suggest that the sale of that building and the division of the proceeds thereof be postponed until a general arrangement is adopted concerning the property of the municipality. In view of the smallness of the amount involved, it would not seem as if there could be any objections to such a postponement. The value of the pilot-house certainly does not exceed $1,000, and you, as the representative of the Americans here, could not, in any event, claim more than one-third of that sum. The Samoan Government will be obliged to pay a suitable rent for the intervening time.

4. If you are unwilling to accept the proposition made by me in the foregoing paragraph, and do not feel disposed to permit the present occupant of the house to occupy it any longer, the Samoan Government is prepared to vacate the pilot-house also without delay.

I beg you to let me know the name of the owner of the land in question in case it no longer belongs to Billy Coe, and I respectfully ask to be informed which of my proposals you and the owner of the land feel disposed to accept.

Accept, sir, etc.,

BECKER,
Imperial Consul.

[Inclosure 3.]

Mr. Sewall to Mr. Becker.

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
APIA, SAMOA,
Apia, February 1, 1888.

SIR: I have the honor to acknowledge the receipt of your communication of yesterday's date.

There appears to be a dispute as to the legal ownership of the land in question, and I will shortly address you again on the subject.

I am, etc.,

HAROLD MARSH SEWALL,
Consul-General.

[Inclosure 4.]

Mr. Sewall to Mr. Becker.

CONSULATE-GENERAL OF THE UNITED STATES OF AMERICA,
Apia, Samoa, February 13, 1888.

SIR: Referring to our correspondence *re* the pilot station, I have the honor to inform you that the title to the land in question is now vested in myself, and that I decline to entertain any of the propositions made in your letter of 31st of January.

I respectfully request that you notify the present occupant, who I understand is a German subject, to remove forthwith.

An early acknowledgment of this will oblige me.

I am, etc.,

HAROLD MARSH SEWALL,
Consul-General.

[Inclosure 5.]

Mr. Becker to Mr. Sewall.

IMPERIAL GERMAN CONSULATE FOR THE SOUTH SEA ISLANDS,
Apia, February 13, 1888.

SIR: I have communicated the contents of your note of this date to the Samoan Government without delay.

The Samoan Government has vacated both the land and the house of the pilot-station, and has intrusted the care of the house to me, as the last president of the municipality.

In the name of the Imperial German Government I lay claim to a share in the ownership of the aforesaid pilot-house. As the Germans residing here paid more than one-half of the municipal taxes, which afforded the means of defraying the expense of erecting the pilot-house, I am especially entitled to the possession and control of the pilot-house. I have therefore placed Mr. Johannsen, my consular clerk, in the pilot-house, in order that he may take care of the building until the adoption of a definitive arrangement with regard to the property of the municipality. This German officer will remove the house, of which the Imperial German Government is a joint owner, from the land over which you claim control as soon as possible (in three days at the latest), and will care for it elsewhere.

Accept, sir, etc.,

BECKER,
Imperial Consul.

[Inclosure 6.]

Mr. Sewall to Mr. Becker.

UNITED STATES CONSULATE-GENERAL,
Apia, February 14, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of yesterday's date.

In my letter of the same date I requested you to notify the German occupant of my land to quit. Your reply is to install there your consular clerk, who will, you state, as a German public officer, remove the house on it to another place.

I have to inform you that the right of this officer to possession is not admitted, and that the removal of the house can not be allowed. The house is a part of the freehold, and by the disruption of the municipality to which it was leased, without assigning, it has become the property of the owner of the freehold. It could never have been removed by the municipality itself, and even if removable, this must have been done before the termination of the municipality's tenancy. If, as intimated by you, the house is the property of the rate-payers of the community, how, I may ask, have you been authorized to act as custodian on their behalf? The organization termed by you the "Samoan Government," from which you state you have received the care of the house, could not give you this authority for it had not this to give, never having succeeded to the rights of the municipality, and therefore in this case never having had legal possession of the house in question.

You allude to yourself as the last president of the municipality, but I need not remind you that your claim to the presidency of the municipal board and court of ap-

peals was not recognized for the six months preceding the withdrawal of your government from the municipality convention; and even had this not been the case, I am not prepared to admit that the fact that you once held this position gives you any power superior to that of your consular colleagues over the municipal property when the municipality has ceased to exist. And equally inadmissible in my opinion is any claim to a special control over the pilot-house, because, as you state, the Germans have paid more than one-half of the municipal dues out of which the building of the pilot-house was defrayed, a statement which does not accord with the belief of American and English residents.

The rights of the subjects of the three treaty powers in the municipal government, as in participation in the municipal government, have been treated uniformly as equal.

Regarded as the property of these, the rights of their consular representatives in the pilot-house are therefore the same, excepting that the house being on my land, it would seem proper that if there is to be any custodian of it pending the division of the municipal, that custodian should be myself.

And, finally, without criticising your action in interrupting the course of orderly negotiations by an undue measure, calculated to forestall their results, I have to inform you that these negotiations can proceed no further until the property in question is vacated, and in the name of my Government I ask that this be done without delay.

I am, etc.,

HAROLD MARSH SEWALL.

[Inclosure 7.]

Mr. Becker to Mr. Sewall.

IMPERIAL GERMAN CONSULATE FOR THE SOUTH SEA ISLANDS,
Apia, February 14, 1888.

I hereby acknowledge the receipt of your polite note of the 14th instant, relative to the pilot-station.

I regret to say that I am unable to find any reasons in your note why I should take a different course from that which has already been taken by me in this matter.

In the mean time, however, the case has reached a new phase, and, in connection therewith, I beg to be allowed to make the following remarks:

In our previous correspondence, since no claim was raised by the German Government to the land of the pilot-station, I had no occasion to examine the titles on which you base your claim to the land. Your claim to the land in question having now become known at Apia, Mr. Edward Weber, as the representative here of the principal agency of the German Trade and Plantation Company, called upon me to-day, and showed me a contract concluded between Chief Laiafi Patiole and the aforesaid principal agency. According to this contract, which was recorded in the register of the German consulate on the 19th of February, 1885, Chief Patiole mortgaged a number of pieces of land, among them that on which the pilot-house stands, to the aforesaid principal agency, and the said pieces of land have, according to the provisions of the contract, inasmuch as the amount of the mortgage was not paid at the time fixed, become the property of the German Trade and Plantation Company. That company asserts its right to the land in question, and has taken possession thereof.

Under these circumstances I can not admit that the land of the pilot-station is the property of a citizen of the United States of America, and can only suggest that you assert your claim against the above-named company by an appeal to the courts.

As to the pilot-house, I have not thought it necessary, in view of this change in the state of the case, to have it removed from the place where it now stands.

Accept, sir,

BECKER,
Imperial Consul.

[Inclosure 8.]

Mr. Sewall to Mr. Becker.

CONSULATE-GENERAL OF THE UNITED STATES,
Apia, February 16, 1888.

SIR: I have the honor to acknowledge the receipt yesterday of your favor dated the 14th instant, in which you inform me that the German firm has taken possession

of the land of the pilot-station under a mortgage exhibited to you by Mr. E. Weber, made by the chief Patiole and registered in the Imperial German consulate on the 19th February, 1885.

In reply I have to inform you that the chief Patiole, by an indenture dated August 6, 1884, and recorded at this office the 18th of September following, leased this land to Mr. William Coe for fifteen years.

At the time, therefore, that it is claimed the mortgage was made to the German firm the land was already leased to Mr. Coe and could not have been mortgaged, excepting subject to the terms of the lease.

The action of the German firm is a trespass upon American property which can not be acquiesced in, and I have to renew my request, made in my letters of the 13th and 14th instant, that the land be speedily vacated by its German occupant.

It is more than two weeks ago that I first addressed you on this subject and stated that this land was owned by a citizen of the United States, and not until yesterday did you question this title; on the contrary, in your letter of the 31st January, you write that the German magistrate has been negotiating for a week to secure from Mr. Coe a renewal of the lease, and request me to let you know the owner in case the land no longer belongs to him.

The title to this land may be taken to have been definitely settled by the lease by Patiole to Mr. Coe and by the subsequent lease executed to the municipality after investigation by the municipal board. Mr. Coe made this lease as lessee under Patiole, and on the day it was executed the latter appeared before the municipal magistrate, and the contents of the lease having been made known to him, declared that Mr. Coe had a right to lease the land and consented to it. A copy of the acknowledgment of this lease certified by the then United States consul, Dr. Canisius, is now in this office.

The municipal board, satisfied with Mr. Coe's title, leased the land and the lease was signed by all the members of the board; your predecessor, Dr. Stuebel, and H. Martin Ruge, esq., being the German representatives. This lease is dated five months before the alleged mortgage to the German firm.

From this time the rent has been paid to Mr. Coe, and his title has been fully recognized. For the past year, as you are aware, Mr. E. Weber has been a member of the board, without whose approval this payment could not have been made.

With the terms of the lease to the municipality you are doubtless familiar. It covenants that the land after the expiration of the lease shall be "peaceably and quickly" surrendered to Mr. Coe.

The lease is now terminated and this covenant unfulfilled.

The question thus presented is not one simply of conflicting claims between private parties, the settlement of which might perhaps, as you suggest, be left to legal action, but it involves the good faith of the former municipality and of every member of this community.

The obligations of the municipality should be fulfilled, and these demand that the land should be surrendered [as] covenanted in the lease.

An early adjustment of this matter is desired by me, as it is one of great importance.

I am, etc.,

HAROLD MARSH SEWALL,
Consul-General.

[Inclosure 9.]

Mr. Becker to Mr. Sewall.

IMPERIAL GERMAN CONSULATE FOR THE SOUTH SEA ISLANDS,
Apia, February 16, 1888.

In reply to your favor of this day's date, I have the honor to state that the principal agency of the German Trade and Plantation Company, although it has been made acquainted with the contents of your communications, still asserts its right to the possession and ownership of the land of the pilot-station. According to German law, I am not authorized to dispossess the aforesaid company of a piece of land which it now holds, unless an executory decision pronounced against it by a German court is exhibited to me.

The question who is entitled to the possession of the land in dispute is one of a legal character, and can be decided by a competent court only, or, if there is no such court, by an agreement between our Governments, by arbitration, for instance.

I do not, therefore, think it necessary for me here to discuss any further the legal points referred to in your polite note. I merely take the liberty to state that before

the point at issue is decided the question should be settled which law (German or American) is to be taken as the basis of the decision. I can not admit that a dispute between a German and an American concerning a piece of land situated in Samoa should be decided wholly in accordance with the principles of law which prevail in the United States, as you appear to think that it should.

As to the reasons why I did not think it necessary sooner to discuss the question of the possession of the land, I stated them in my note of the 14th instant.

With regard to the pilot-house, I can only likewise suggest to you to await the decision of our Governments. No one can suffer any appreciable detriment from a postponement of the decision of this whole matter. The interests of the American citizens concerned seem to be fully protected, since all the ready money that belonged to the former municipality is now in the custody of Mr. Hamilton, the American vice-consul.

Accept, etc.,

BECKER,
Imperial Consul.

No. 494.

Baron von Zedtwitz to Mr. Bayard.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, June 4, 1888. (Received June 6.)

Mr. SECRETARY OF STATE: I have the honor, in obedience to instructions received from the Imperial Government, most respectfully to inform you that it is proposed to hold during the months of April, May, and June, 1889, in the Exhibition Palace at Berlin, a general German exhibition of devices for the prevention of accidents.

The initiative in this enterprise has been taken by parties interested in the manufacture of such articles, and its object is to disseminate a knowledge of the apparatus and devices that have been invented for the prevention of accidents among those engaged in the various branches of industry, and also to promote the improvement and multiplication of such inventions.

The accomplishment of this enterprise will, it is believed, not only facilitate the fulfillment of the duties incumbent upon employers, but at the same time secure to the employed increased protection against the dangers to which their work exposes them.

The Government of His Majesty the Emperor recognizes the enterprise as a means of benefiting the workingman, and will strive to promote its success.

Foreign exhibitors also are invited to take part in the exhibition.

I inclose a number of copies of the programme, which has been issued in the name of the committee of arrangements, remarking at the same time that additional copies of this document will be furnished, if desired, and that the management of the exhibition intends, if it shall be found necessary, to have an English edition of the programme prepared.

Accept, etc.,

V. ZEDTWITZ.

No. 495.

Count Arco to Mr. Bayard.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, June 18, 1888. (Received June 18.)

Mr. SECRETARY OF STATE: I duly transmitted to my Government the resolution whereby the sympathy of the House of Representatives with

the German nation, on account of the death of His Majesty Emperor Frederick III was expressed.

My telegram was laid before His Majesty the Emperor, who was deeply moved thereby, and who has instructed me to thank the House of Representatives, through the Government of the United States, for this manifestation of regard.

I have the honor most respectfully to beg you, Mr. Secretary of State, to convey the thanks of His Majesty the Emperor to the House of Representatives.

And I avail myself, etc., ARCO.

No. 496.

Count Arco to Mr. Bayard.

[Translation.]

IMPERIAL GERMAN LEGATION,
Washington, July 11, 1888. (Received July 12.)

Hon. SECRETARY OF STATE: The chargé d'affaires of the United States of America at Berlin has, in a note of the 16th ultimo, given official expression to the deep regret felt by the President of the United States and the American people at the great loss which the Imperial family and all Germany have suffered in the death of His Majesty the Emperor Frederick III.

In addition to the thanks already returned to the chargé d'affaires of the United States by the Imperial Government through the secretary of state for foreign affairs, Count von Bismarck-Schönhausen, I myself have been instructed to inform the President of the United States through you, Mr. Secretary of State, that the significance of that announcement has been highly appreciated by His Majesty the reigning Emperor and by the Imperial Government.

I hasten to avail, etc. ARCO.

No. 497.

Mr. Bayard to Count Arco.

DEPARTMENT OF STATE,
Washington, August 17, 1888.

SIR: Referring to my note of the 7th instant, in which I returned to you certain documents (left by you with me informally for my consideration), relative to the subject of the validity of marriages in China between Chinese subjects and foreigners, I now have the honor to inclose herewith a memorandum, which embodies the views of the Department in relation to the matter.

Accept, etc., T. F. BAYARD.

[Inclosure.]

MEMORANDUM.

By the common law of Christendom, brought with them to this country by its European colonists and built upon as the basis of its political institutions, it is essential to marriage that it should be a "voluntary union for life of one man and one woman to the exclusion of all others;" and it is by such marriages alone that the family is constituted as an integer of the State. Such being the case, it is not within the province of this Department to admit extraterritorial validity for any foreign legislation which does not give a similar definition, and make such exclusiveness an essential element of marriage.

The Department, therefore, can not regard the status of citizens of the United States, though resident in China, as in any way affected by such legislation; and if by the Chinese law controlling marriage such exclusiveness, as it is generally understood, is not imposed, this Department can not take any steps towards recognizing as marriages such sexual unions as are based on such polygamous law. At the same time the Department will interpose no objection to police regulations requiring notice to Chinese authorities of all consensual marriages in China of citizens of the United States.

It is proper to add that the matrimonial status of a person who is a citizen and domiciled in a particular State of the American Union is determinable by the law of such State and not by the laws of the Federal Government of the United States.

DEPARTMENT OF STATE, *August* 17, 1888.

GREAT BRITAIN

No. 498.

Mr. Phelps to Mr. Bayard.

No. 625.] LEGATION OF THE UNITED STATES,
London, November 19, 1887. (Received November 29.)

SIR: Referring to your circular instruction of July 9 with reference to the amendment of the laws relating to shipping, I have the honor to acquaint you that I lost no time in forwarding a copy of the same to Her Majesty's Government and in inviting their co-operation in the matter. The Marquis of Salisbury's reply to my communication has just reached me, and I inclose herewith a copy of the same.

I have, etc., E. J. PHELPS.

[Inclosure in No. 625.]

The Marquis of Salisbury to Mr. Phelps.

FOREIGN OFFICE, *November* 17, 1887.

SIR: I lost no time in referring to the board of trade your letter of August 15, inviting the co-operation of Her Majesty's Government with that of the United States with a view to lightening the burdens on shipping and amending the laws relating to shipping, etc., and also asking for information as to whether any, and, if so, what discrimination exists in this country against vessels of the United States as compared with British vessels or the vessels of any other country.

I have now the honor to state to you that I am informed by the board of trade that there are no such discriminating duties on United States vessels as compared with British vessels in ports of the United Kingdom. Such indeed would be contrary to the convention of commerce between this country and the United States of July 3, 1815, clause ii of which stipulates that "no higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States, nor in the ports of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels."

This stipulation, so far as the United Kingdom is concerned, was carried into effect by the Act 59, George III, chapter 54, clause viii.

It is, moreover, the general and long-established policy of the United Kingdom, apart from treaties, not to impose discriminating duties of any kind, whether on ships or cargoes; and even the coasting trade of the United Kingdom is freely open to vessels of the United States as to other foreign vessels, although the United States does not admit British vessels to reciprocal privileges in her coasting trade.

As regards the request of the United States Government for co-operation in reducing or lightening light-house or tonnage dues on shipping between the ports of the British Empire and those of the United States, I am informed by the board of trade that the whole subject of light-house dues in the United Kingdom is being inquired into, with the view of ascertaining whether any revision or re-adjustment of those dues can be made, but not with any intention on the part of Her Majesty's Government to abolish them.

The board of trade are also making inquiries as to whether there are any ports in the United Kingdom where the light-house dues in the trade with the United States are lower than the tonnage dues now leviable in the United States, so that, as regards these ports, British vessels would be entitled to the reciprocal treatment promised in the circular which accompanied your note; and as soon as I shall have heard the result of those inquiries, I shall have the honor of addressing a further communication to you.

I have, etc., SALISBURY.

No. 499.

Mr. Phelps to Mr. Bayard.

No. 628.] LEGATION OF THE UNITED STATES,
London, November 26, 1887. (Received December 6.)

SIR: Referring to your instruction numbered 654 of July 5 last, I have the honor to inclose herewith the copy of a communication which I have received from the foreign office with reference to the collection at Hong-Kong of lekin on kerosene oil, from which you will observe that the private collection of that tax has ceased.

I have, etc.,

E. J. PHELPS.

[Inclosure in No. 628.]

Sir J. Pauncefote to Mr. Phelps.

FOREIGN OFFICE, *November* 25, 1887.

SIR: Since the date of my note to you of the 31st ultimo I have been in telegraphic communication with Her Majesty's minister at Peking regarding the question of the collection at Hong-Kong by Chinese officials of lekin on kerosene oil shipped thence to Canton.

Sir J. Walsham informs me that the private lekin collectorate at Hong-Kong, of which complaint was made, has ceased since Sir Robert Hart took charge of the Chinese customs stations, which, except in regard to opium, have no concern with foreign trade ships or foreigners at Hong-Kong.

Kerosene oil shipped from Hong-Kong in Chinese crafts to a treaty port is subjected to a lekin duty which the Chinese customs service collects at Hong-Kong for the account of the Chinese provincial authorities of the port of destination, in addition to the native tariff duty; but if the oil is conveyed in a foreign vessel, the foreign importer pays import duty according to maritime tariff at the port of entry and the lekin duty is not levied until it passes into the hands of the Chinese dealer, and is then collected, not by the maritime customs service, but by native officials.

Sir J. Walsham further states that lekin on the oil in the Canton province has been considerably reduced, and that the import duties collected under the native tariff may perhaps shortly be so also.

Under the circumstances described by Sir J. Walsham, it does not appear that there is any ground for representations to the Chinese Government based on treaty rights, as there is no interference with foreign shipping, and the lekin is not levied on the oil so long as it remains in foreign hands.

I have, etc.,

J. PAUNCEFOTE.

No. 500.

Mr. Bayard to Mr. Phelps.

No. 739.] DEPARTMENT OF STATE,
Washington, December 2, 1887.

SIR: I inclose herewith, for your information, a copy of a note to this Department from Her Britannic Majesty's minister* inquiring at the instance of the Marquis of Salisbury whether any member of our legation at London could attend the sugar conference now in session there, and which the minister states will not conclude its labors for some time to come.

Upon consideration of this invitation the Department sees no objection to authorizing a suitable person to attend the sittings of the sugar conference in a friendly way, as the representative of this Government, to listen to its proceedings and report same, but without committing the United States to participation in its deliberations or conclusions.

* For the British minister's note see Doc. No. 543, post, page 771. For Mr. Bayard's reply see Doc. No. 544, post, page 772.

You are accordingly requested to designate Mr. White, the first secretary of your legation, for this service, and to inform the foreign office that he will attend the conference in question as the representative of this Government under the conditions above indicated.

I am, etc., T. F. BAYARD.

No. 501.

Mr. Phelps to Mr. Bayard.

No. 643.] LEGATION OF THE UNITED STATES,
London, December 17, 1887. (Received December 28.)

SIR: Referring to your instruction numbered 727 of the 17th November, I have the honor to inclose herewith the copy of the note which I received on the 10th instant from the foreign office stating that the secretary of this legation had been authorized by you to attend the International Conference now sitting in London on the sugar bounties question.

In accordance with the instructions contained in a telegram received from you, rece ved 10th instant, Mr. White, the secretary of this legation, has attended the three sittings of the conference which have been held this week. He has, however, taken no part in its discussions, and I inclose herewith the copy of the note which I addressed to the Marquis of Salisbury, defining the conditions upon which Mr. White had been authorized to attend in behalf of the United States, and a copy of his reply.

The conference will adjourn on the 19th instant for two or three months in order to enable the delegates of the various countries officially represented to submit to their Governments the conclusions at which they have arrived.

Mr. White will send you his report of the proceedings and conclusions of the conference as soon as possible after its adjournment.

I have, etc., E. J. PHELPS.

[Inclosure 1 in No. 643.]

Sir James Fergusson to Mr. Phelps.

FOREIGN OFFICE, *December* 9, 1887.

SIR: Her Majesty's minister at Washington has informed me that the United States Government have been good enough to accede to the request of Her Majesty's Government, that the United States should take part in the sugar conference now sitting in London, and Sir Lionel West has been given to understand that the first secretary of your legation will attend the conference informally.

I beg leave to state that the next meeting will take place at this office on Monday at 2 p. m. and to say that if you will make known to me the name of the gentleman who has been designated to attend, he will receive a formal invitation from Baron Henry de Worms, the president of the conference, and will be supplied, for his confidential information, with the minutes of the previous sittings.

I have, etc.,

JAMES FERGUSSON.
(For the Marquis of Salisbury.)

[Inclosure 2 in No. 643.]

Mr. Phelps to the Marquis of Salisbury.

LEGATION OF THE UNITED STATES,
London, December 12, 1887.

MY LORD: With reference to your note of 9th instant, I have the honor to acquaint your lordship that Mr. Henry White, the first secretary of this legation, has been authorized by my Government to attend the sugar conference now sitting here, in a

friendly way, to listen and report upon its proceedings, without, however, committing the United States to participation in its deliberations or conclusions.

In accordance with the intimation contained in your note, Mr. White will attend the meeting of the conference to day at 2 o'clock, even should the formal invitation referred to from Baron Henry de Worms not reach him before that hour.

I have, etc.,

E. J. PHELPS.

[Inclosure 3 in No. 643.]

Sir T. V. Lister to Mr. Phelps.

FOREIGN OFFICE, *December* 16, 18887.

SIR: I have the honor to thank you for your letter of the 12th instant, informing me that Mr. Henry White, first secretary of the United States legation at this court, has been authorized by the United States Government to attend the sugar conference in a friendly way.

I have, etc.,

T. V. LISTER.
(For the Marquis of Salisbury.)

No. 502.

Mr. Phelps to Mr. Bayard.

No. 651.] LEGATION OF THE UNITED STATES,
London, January 4, 1888. (Received January 17.)

SIR: Referring to your instructions numbered 730 of the 18th November, 1887,* I have the honor to inclose herewith a copy of a note received from the foreign office in reply to one which I addressed to Lord Salisbury in accordance with the instructions above referred to.

I have, etc.,

E. J. PHELPS.

[Inclosure in No. 651.]

Sir T. V. Lister to Mr. Phelps.

FOREIGN OFFICE, *January* 2, 1888.

SIR: I have the honor to inform you that Her Majesty's postmaster-general has had under his consideration the representation to the United States Postmaster-General, a copy of which was inclosed in your note of the 7th ultimo, respecting the postal communication from Europe to the United States.

In reply to your above-mentioned note, I beg leave to assure you that the influentially signed expression of opinion inclosed therein will not be lost sight of when an opportunity occurs for reconsidering the arrangements now in force for the conveyance of the mails from this country to New York; but, as you are doubtless aware, the efforts which Her Majesty's postmaster-general has from time to time made to adopt the American transatlantic system have not received so much support in this country as would at present warrant a disturbance of existing arrangements.

I have, etc.,

T. V. LISTER.
(For the Marquis of Salisbury.)

No. 503.

Mr. Phelps to Mr. Bayard.

No. 652.] LEGATION OF THE UNITED STATES,
London, January 7, 1888. (Received January 17.)

SIR: I have tho honor to inclose herewith a report by Mr. Henry White, first secretary of this legation, upon the proceedings of the

* Printed in Foreign Relations, 1887, pp. 489–495.

international conference recently held here in reference to the question of sugar bounties, at which he was directed by you to be present.

This report is so full and satisfactory that I do not deem it necessary or useful to add anything thereto.

I have, etc.,

E. J. PHELPS.

[Inclosure in No. 652.]

Mr. White to Mr. Bayard.

REPORT ON SUGAR BOUNTIES.

LEGATION OF THE UNITED STATES,
London, December 28, 1887.

SIR: I have the honor to acquaint you that in accordance with the instructions contained in your telegram to the minister of the 10th instant, I attended the fourth and subsequent meetings of the international conference on the sugar bounties question, until its adjournment on the 19th of this month; and I inclose herewith (inclosure A) the copy of a printed document embodying the minutes of its proceedings, together with other papers of interest connected with the same, to which I shall refer hereafter.

Upon my arrival at the foreign office on Monday, the 12th instant, to attend the meeting fixed for that day, I informed the president, Baron Henry de Worms, that I had been authorized by you to represent the United States in a friendly way at the conference, and to report its proceedings to my Government, but not to participate in its deliberations, nor to commit the United States to any of the conclusions which might be arrived at.

Baron de Worms expressed great pleasure at the presence of a representative from the United States, and the other delegates were good enough to assure me that their sentiments were in complete accord with those to which the president had given utterance, many of them coupling with this assurance an expression of regret that my Government was not officially represented, upon the ground that no conference on the sugar industry could be complete without the formal participation therein of the United States.

Baron de Worms also read to the conference a French translation of Mr. Phelps' note to Lord Salisbury (inclosure A, page 51) of December 12, a copy of which has been already sent to you in dispatch No. 643, of the 17th instant, from this legation.

The French language was exclusively used in the deliberations of the conference, at which the following nations were represented: Austria-Hungary, Belgium, Denmark, France, Germany, Great Britain, Holland, Italy, Russia, Spain, and Sweden.

Brazil also sent a delegate, but instead of putting in an appearance at the conference, he remained at Paris, and from there addressed a letter to the president (inclosure A, p. 44), transmitting a brief statement with regard to the sugar industry in Brazil and to the legislation of that country affecting the same, together with an intimation that, in his opinion, the conference would be devoid of practical results, owing to the conflicting interests of the countries represented, which would prevent their coming to any agreement.

France sent five delegates and a secretary; Holland and Great Britain four each (of the latter, Lord Onslow, colonial under-secretary of state, represented the British colonies); Belgium sent three delegates; Spain and Germany two each, and the other powers a single delegate. Most of these gentlemen, whose names are transmitted herewith (inclosure A, p. 31) are connected with the ministries of finance or with the customs departments of their respective countries. They are thoroughly conversant with every detail in regard to the sugar industry, and some of them had been at previous conferences in reference thereto.

The senior French and British and the second Spanish delegates are, however, members of parliament in their respective countries, and the Austro-Hungarian, the senior Spanish, the Italian, and the second French delegates are diplomatists; the two latter being first secretaries, respectively, of the Italian and French embassies accredited to this court, and Mr. Dupuy de Lôme, of Spain, having been formerly secretary of legation at Washington.

The whole of the beet-sugar interest of the world, save our own, which is insignificant, and about four-fifths of that of cane-sugar, were thus officially represented at the conference, which was convoked for reasons set forth in the Marquis of Salisbury's circular dispatch of July 2 last (inclosure A, p. 1), to Her Majesty's represent-

atives accredited to the governments invited to participate, a copy of which is doubtless on file at the Department of State.

According to the terms of this dispatch, the attention of the proposed conference would be particularly called to the following points, without, however, excluding others bearing on the sugar industry which the delegates might wish to consider:

(1) The means of remedying the unsettled condition of the sugar trade.

(2) The possibility of adoption by the Governments represented of a system of refining and manufacturing in bond.

(3) The elaboration of a system of duties and drawbacks, which should render any difference between them in favor of exporters of sugar an impossibility.

(4) The examination of any proposals tending to guaranty the abolition of bounties which might be made.

It has long been obvious here that the sugar industry of Great Britain has been seriously impaired by the heavy bounties given by certain Governments (France and Germany in particular) to their exporters, who were thereby enabled, with profit to themselves, to place sugar on the London market at a lower rate than it could possibly be produced in this country save at a considerable loss.

That this has been the case for some time past with regard to sugar imported from the United States is well known, and the attention of the Secretary of the Treasury was called last year to the fact that our Government was giving bounties, to the extent of thousands of dollars annually, in the shape of drawbacks, by Mr. Phelps' dispatch No. 300, of June 19, 1886, which was based upon information furnished to him by an American resident of London, to the effect that by means of the excess of drawbacks received upon sugar exported from New York over the duty originally paid upon the importation of the raw material from the West Indies, the refiners of that city were able to sell their sugar, *with profit*, in the London market at a lower price than that originally paid for the raw material.

The drawback has since been reduced, but it still affords a bounty to our exporters.

Urgent representations, which are fully set forth in the accompanying Blue Book on sugar bounties, issued in 1884 by the board of trade (inclosure B), have been made on the subject at different times to successive British ministries, and there have been attempts by this country since 1880 to persuade certain Governments to take part in a conference, with a view to the abolition of bounties; but it is only this year that these efforts have met with success.

As it can not be supposed that any of the Governments, in consenting to send delegates to the conference, were actuated by other motives than self-interest, it must be assumed that they have found the system of giving bounties, which in certain countries, from motives of self-protection, have been steadily increasing in amount, more than their budgets would stand, and that they have consequently arrived at the conclusion that it is contrary to their interests to continue the disbursement annually of large sums, the chief effect of which is to cheapen the price of sugar to the British consumer.

The question of bounties in our own and certain other countries is treated so fully in a very interesting pamphlet by Dr. W. H. Wiley on the sugar industry of the United States, published by the Department of Agriculture, at Washington, in 1885 (Bulletin No. 5, Chemical Division), that I deem it unnecessary to dwell at length upon the subject.

The manner is therein set forth in which the exportation of sugar is encouraged by the payment of Government bounties, usually in the excess of drawbacks over duties. These drawbacks are supposed to be exactly equal in amount to the duties, but as a matter of fact this is not the case; for the reason that it is often difficult, if not impossible, to ascertain the exact quantity of sugar which can be obtained from a given amount of beets or cane; as this depends not only upon the quality of the machinery, but also upon that of the raw material used. In Belgium, for instance, where there is a fixed legal yield (*prise en charge*), it appears that the beet is much richer in the north, and consequently productive of more sugar than in the south.

The first sitting of the conference was devoted to the election of officers, the senior British delegate, Baron Henry de Worms, M. P., parliamentary secretary of the board of trade, being chosen president, and the Comte de Kuefstein, representing Austria-Hungary, vice-president.

Papers embodying statistics of the sugar trade, and also the systems of taxation, duties, and drawbacks prevalent in each of the countries represented, were laid before the conference at this meeting. The details contained in these documents, which were furnished by the different powers at the request of the British Government, are of much interest, and are transmitted herewith (inclosure A, pp. 2–29).

After the expression in happily worded speeches (inclosure A, p. 31) by the president and vice-president of a hope, in which M. Guillaume, of Belgium, concurred, that the conference might be able to agree upon means for carrying into effect the object for which it had come together, namely, the abolition of bounties, direct and indirect, upon the exportation of sugar, an adjournment was voted to Monday, Novem-

ber 28, on the understanding that meanwhile the delegates should acquaint themselves with the memoranda contained in the papers to which I have already referred.

At the second meeting of the conference the questions at issue were seriously broached, as will be seen by the minutes (inclosure A, pp. 34–40), in which the positions assumed by the delegates of each country are fully set forth. Upon the suggestion of M. Kamensky, of Russia, the representatives of the powers were requested to state in turn the views of their respective Governments, and especially, whether and to what extent the latter favor the exportation of sugar by granting direct or indirect bounties, and whether they really desire to abolish the same.

From the statements made in reply to this suggestion, which are given so fully in the minutes that I deem any description of them other than a brief summary unnecessary, it appeared that the recent legislation of Austria-Hungary and that of Germany tend to the abolition of bounties; that France, while compelled in self-defense to give very high bounties to her exporters, earnestly hopes that by their abolition elsewhere she may be enabled to do away with them; that in Russia they had already been abolished, save on the Asiatic frontier (where they would also cease to exist in 1891); that Spain practically gives no bounties; and that Holland, Belgium, Italy, Sweden, and Denmark would cheerfully join in their abolition with the other powers.

In the course of their statements a variety of interesting statistics were gone into by the delegates, the accuracy of some of the figures quoted and the conclusions of certain members of the conference based thereupon being occasionally called in question by others.

The discussion was continued at the third meeting of the conference, which took place on Wednesday, November 30, and it soon became evident that the delegates, while apparently agreed upon the principle of abolishing bounties, were far from unanimous as to the means of attaining that end. The majority appeared to favor the proposal of a tax in each country upon the quantity of sugar produced and intended for consumption therein, the raw material being admitted free of duty, and all necessity for a drawback being thereby obviated. But the Belgian delegates, under instructions from their Government, objected strongly to this system, giving as reasons that (1) no uniform method for abolishing bounties would be, in their opinion, possible, owing to the difference between the fiscal systems and the customs of the trade of different countries; and (2) that a system of refining and manufacturing in bond would be out of the question in Belgium (where it had been tried for a short time), owing to the unpopularity and to the expense to the state of the strict excise supervision which would become necessary, and would be injurious to the trade.

It was eventually decided to appoint a committee to consider the different proposals, and to recommend the best means to be adopted for the abolition of the bounties.

In this connection, M. Sans-Leroy, who represented French interests with marked ability at the conference, raised the question of saccharometry, stating that in his opinion the exact saccharine value of the product to be taxed (under the system to which I have just referred) should be determined before the appointment of a committee to consider and recommend a general system of taxation; but after some discussion this question was referred to the committee, which was composed of the Comte de Kuefstein (Austria-Hungary), Messrs. Jaehnigen (Germany), Guillaume (Belgium), Sans-Leroy (France), Verkerk Pistorius (Holland), and Walpole (Great Britain).

The conference then adjourned until the committee should be in a position to report.

On Monday, December 12, the conference, at which, as already stated, I was present that day for the first time, held its fourth sitting to receive the report of the committee (inclosure A, p. 51), which recommends:

(1) A system of taxation based upon the quantities of sugar produced and ready for consumption, including glucose and sugar extracted from molasses, as the sole means of abolishing bounties. (Belgium, while assenting to the principle of the abolition of bounties, makes formal reservations in a second paragraph of this clause with regard to the method suggested by the other members of the committee.)

(2) That the extent to which saccharometry shall be used in the proposed system of taxation upon the quantities of sugar produced be referred to each Government. Uniformity of method in its use is suggested as desirable.

(3) That the different Governments communicate to each other their respective views upon the aforesaid suggestions before March 1, and if favorable to the same, that they be requested to formulate and transmit to each other a project for the taxation of quantities of sugar produced, which project should state the extent to which saccharometry should be employed.

The report of the committee led to a protracted discussion; most of the delegates being in favor of its adoption, save as respects the clause affecting Belgium. The senior Belgian delegate repeated the objections of his Government to a system of refining and manufacturing in bond, and then proceeded to explain the concessions

proposed in its stead as guaranties for the suppression of bounties. These consisted of modifications in the system now in force in Belgium. This is based upon the volume and the density of the juice, which the Belgian Government believes to be ascertained with accuracy by means of an apparatus provided with an automatic meter, a drawing and description of which will be found herewith (inclosure A, p. 10). It is now assumed, for purposes of taxation, that for every hectoliter of volume, and for every degree of density registered by this apparatus 1,500 grams of sugar are obtained, and this is taxed at 45 francs per 100 kilograms; but it is well known that the actual yield of sugar is much greater. With a view to doing away with the difference between the legal and the actual yield, M. Guillaume proposed to raise the former (*prise en charge*) to 1,700 grams, and to reduce the tax from 45 to 25 francs per 100 kilograms. He claimed that these modifications, if adopted, would afford complete guaranties for the abolition of bounties, and gave his reasons at considerable length; but they were not deemed satisfactory, such abolition being impossible, in the opinion of most of the delegates, of accomplishment by the means proposed by M. Guillaume, for the reason that no fixed legal yield could be settled upon as an equivalent of the actual yield, which must vary, as already stated, in accordance with the richness of the beet. Full particulars of the discussion on this subject will be found in the minutes (inclosure A, pp. 45–50).

The delegates promised to submit to their respective Governments the Belgian proposals, intimating clearly, however, that they would not be considered satisfactory.

After adopting the report of the committee the conference adjourned until Wednesday, December 14, when its fifth sitting (inclosure A, page 52) was held.

An ineffectual attempt was made on this occasion by the French and Dutch delegates to induce their Belgian colleague to modify the position assumed by him at the last meeting.

Mr. Dupuy de Lôme, of Spain, then raised a question of importance, especially to countries not belonging to the sugar union, which it is hoped (and in my opinion not without reason) will be the outcome of the conference, namely, as to the guaranties to be given to countries within the union against the importation from those not parties thereto of bounty-fed sugar, which he maintained would, if allowed, be equivalent to the imposition of a discriminating duty upon non-bountied sugar, and would be a violation of the most favored nation clause in many treaties of commerce.

This question, although it evoked no general expression of opinion, was deemed worthy of serious consideration, and it is to be submitted during the adjournment to the various Governments represented. It will undoubtedly be again brought forward when the conference re-assembles in April next, and a penal clause will not improbably be inserted in the treaty.

M. Verkerk Pistorius, of Holland, also raised the question of "surtaxes," which he explained to be the difference between the tax levied in a country upon home-made sugar and the duty charged upon sugar imported from abroad. He expressed a desire to have a clause inserted in the treaty prohibiting "surtaxes," on the ground that any country, by allowing an import duty in excess of the internal tax on sugar, could at once create protection for its home market, and that such protection might, by developing the manufacture of sugar, enable a country of the union largely to increase its exports of that commodity.

There was some discussion of this question, which was eventually dropped, most of the delegates stating that they were without instructions on the subject, as their respective Governments had not deemed "surtaxes" to be within the range of the deliberations of the conference; the more so, as no rule could be laid down in the matter without interfering with the right of each nation to impose such import duties as it might deem advantageous or desirable. It was, moreover, distinctly intimated that certain countries—France and Russia among the number—would not undertake to abolish "surtaxes," as such a step would deprive them of the right to reserve their home markets to their own sugar, should they wish to do so. I do not think this subject will be again brought forward upon the re-assembling of the conference; certainly not with any chances of success; but it is to be submitted by the delegates to their Governments.

The Earl of Onslow, before the adjournment of the conference, in reply to a suggestion of the French delegate that it would be impossible to conclude any arrangement on the sugar-bounties question without including therein the British colonies, stated that of all the self-governing colonies of this Empire Victoria and New Zealand alone give bounties; the former grants one of a half penny per pound, which has thus far never been claimed or paid, and in the latter a bounty of 3*s.* 6*d.* per hundred-weight exists, but he hoped that before March 1 these two colonies and all the others excluded by Article VIII of the proposed convention would have agreed to become parties thereto.

The proceedings of the seventh and last meeting of the conference, which took place on Monday, December 19, were chiefly formal.

The Spanish delegates presented a memorandum of their proposal with regard to a penal clause (inclosure A, p. 58.)

The protocol, of which I inclose an original copy (inclosure C) herewith (it is also to be found in inclosure A, p. 63), was signed by the delegates of all the powers officially represented at the conference, it being understood that Belgium made express reservations as to the last paragraph, relative to Article III of the "projet de convention," which formally records the reservations made by the French, Austro-Hungarian, German, Spanish, Italian, Dutch, and Russian delegates as to the Belgian proposals.

I transmit herewith a translation of the protocol and "projet de convention" (inclosure D).

After the signature of the protocol a letter was read by the president from Lord Salisbury (inclosure A, p. 64) congratulating the members of the conference upon the successful issue of their labors; which were then brought to a close by Baron Henry de Worms in a speech summarizing the results that had been accomplished, and thanking the delegates for their co-operation. To this the vice-president and M. Sans Leroy, of France, replied. The conference then adjourned to Thursday, April 5, next.

It was undoubtedly successful in its results, beyond the expectation of those who took part in it; and I ought to add that, in my opinion, this was largely due to the ability and tact of the president, Baron Henry de Worms; although, of course, his services would have been of no avail, had not the Governments represented been anxious to do away with bounties if possible.

It is scarcely necessary for me to call attention to the fact that by signing the protocol on the 19th instant the delegates are only bound to submit to their respective Governments the "projet de convention," and that the latter will only become binding upon its ratification, which is expected to take place in April next.

Of course, it is quite possible that the convention may not be ratified, but I infer from what I heard at the conference, and from frequent conversations with the leading delegates, who were in constant telegraphic communication with their Governments, that a sugar union will be formed next year, having for its basis the abolition of export bounties.

Belgium can hardly afford to be excluded from such a union, if the other powers represented at the conference unite in forming it; it will certainly not be admitted on the terms proposed by the Belgian delegates. It is therefore probable that these proposals will be modified in such a manner as to furnish the guaranties required by the other powers.

I have already stated that a very earnest desire was evinced at the conference that the United States should become a party to the proposed sugar union and should sign the convention in April next.

I do not conceive it to be a part of my duty to express an opinion as to the propriety of our adopting such a course or otherwise; but I observe that the Secretary of the Treasury, in his report to Congress on the state of the finances for this year (page xviii) recommends that "our drawback laws be so framed as to insure the payment of no more than the amounts actually collected in duties (*i. e.*, that bounties be abolished)."

It may be well, however, to point out in this connection—

First. That under Article IV any Government may become a party to the convention without necessarily adopting the principle of refining and manufacturing in bond, by undertaking to impose no duties on sugars or not to allow any drawback or reimbursement of duties upon imported sugars.

Second. That, by joining the proposed sugar union, a nation will not, according to present indications, be compelled to forego the right to protect its home market by import duties to any extent that it may consider advantageous.

Third. That should a Government not deem it advisable to join the union at the time of its formation it may do so hereafter, under Article VII of the convention, by notifying the British Government.

Fourth. That sugar imported into the union from bounty-giving countries will, in all probability, be subjected, should the penal clause previously mentioned be inserted in the convention, to a duty whereby any advantages derived from such bounties will be annulled.

I have delayed sending this report for a few days in the hope of obtaining an English translation of inclosure A; but I am informed that this will only be ready for the opening of Parliament in February.

I should have been happy to translate it myself had the clerical assistance allowed to this legation been adequate; but it would have been impossible, under the circumstances, for me to undertake any such work, consistently with my other duties, without greatly retarding the transmission of this report. As soon as a translation can be obtained it shall be forwarded to you.

It is understood that Her Majesty's Government will communicate to all the others who have participated in the conference, through the usual diplomatic channels, any expression of the views of the powers with respect to the principles adopted by the

conference, and any proposals as to the application of the system of taxation upon quantities of sugar produced, which may reach the foreign office here.

Copies of any such documents which may be received at this legation shall be immediately forwarded to you.

I have the honor to be, sir, your obedient servant,

HENRY WHITE.

NOTE.—Inclosures A, B, and C are not printed herewith.

[Inclosure D in Mr. White's report.]

The sugar bounties conference.—Proposed convention.

The members of the International Conference on Sugar Bounties met yesterday afternoon at the foreign office for the last time before adjourning. Baron Henry de Worms presided, and all the representatives attended. The sitting occupied over three hours, and on rising the conference adjourned to April 5.

The following letter was read to the members of the conference by Baron Henry de Worms:

"FOREIGN OFFICE, *December* 17.

"MY DEAR BARON DE WORMS: A political engagement of long standing will take me away from London, and will, to my great regret, prevent me from having the opportunity of meeting the delegates to the sugar conference at their final sitting. Will you kindly be the bearer of my apologies, and, at the same time, of my sincere congratulation on the success which has attended their labors? The present suspension of their labors is only an adjournment. I shall hope to have the honor of welcoming them on their re-assembling in March, when I trust they will return armed with the powers necessary to give practical effect to their valuable deliberations.

"Believe me, yours, very truly,

"SALISBURY.

"To the Baron HENRY DE WORMS, M. P."

The following protocol was signed yesterday by the delegates of the various States represented at the conference:

"The undersigned delegates of Germany, Austria-Hungary, Belgium, Denmark, Spain, France, Great Britain, Italy, the Netherlands, Russia, and Sweden met in London on the 24th of November, 1887, in order to study the bases of an understanding with regard to the suppression of bounties on the exportation of sugars. After the deliberations recorded in the 'procès verbaux' of the sittings, they arrived at an agreement upon the principles enunciated in the report of the commission. In order to give a practical application to this enunciation, the president of the conference communicated to them a proposal of convention, which they have examined and undertake to submit to the consideration of their Governments, praying them to make known to her Britannic Majesty before the 1st March, if they adhere to the principles of this proposed convention which is annexed to the present protocol. In case of agreement each Government shall communicate with the British Government before the said date a proposal indicating the bases of the application of the system of taxing the quantities of sugar produced. This proposal is to state with what limitations and in what cases saccharometry will be employed. Each Government will at the same time make known if, for the sake of uniformity, it may be disposed to admit what is called the French method generally employed in the commerce of several nations. With regard to Article III of the said proposed convention, the French delegates, not considering that the system proposed by Belgium presents for the suppression of bounties the guaranties with which the high contracting parties ought to be furnished, make the most express reserves as to this article. The delegates of Germany, Austria-Hungary Spain, Italy, the Netherlands, and Russia adhere to the reserves made by the French delegates.

"Done at London, 19th December, 1887."

The following is the annex to the above protocol:

"The high contracting parties, desiring to insure the total suppression of premiums, open or disguised, on the export of sugars, have resolved to conclude a convention to this effect, and have appointed as their plenipotentiaries the following: ——— ———, who, after having exhibited their full powers, found to be in good and due form, have agreed upon the following articles:

"(1) The high contracting parties undertake to take or to propose to their respective legislatures measures which shall constitute an absolute and complete guaranty that there shall not be granted any premium, open or disguised, on the export of sugars.

"(2) The high contracting parties undertake to adopt, or to propose to their respective legislatures, a system of taxation of the quantities of sugar produced, and ready for consumption, as the only plan which permits of the suppression of the premiums in question, and to submit to the same arrangement the factories of glucose and factories for the extraction of sugar from molasses.

"(3) Belgium not being under the same conditions with regard to the application of the system of taxing the quantities of sugar produced, the system at present in force in that Kingdom may be maintained with the following modifications: The assessment of the tax shall be reduced from 45 francs to 25 francs, from the time the present convention shall be put in force. The capacities of the compounding factories shall be increased from 1,500 to 1,700 grams.

"(4) States or colonies and foreign possessions of the high contracting parties, who, though not adopting the system mentioned in Article II, do not levy taxes on sugars, or who agree not to allow upon raw or refined sugars which are being exported any drawback, re-imbursement, or reduction of charge of dues or quantities, shall also be admitted to the convention.

"(5) In case a State which does not levy duties on sugar shall impose them, this State must levy those duties upon the quantities of sugar produced and intended for consumption, or at least must not give any drawback, re-imbursement, or discharge of duties or quantities.

"(6) The high contracting parties shall communicate the laws which may have been already adopted, or which are about to be enacted, in their respective States with reference to the object of the present convention.

"(7) States which have not taken part in the present convention are admitted to adhere to it on their demand. This adhesion shall be notified in diplomatic course to the Government of Her Britannic Majesty, and by them to other contracting powers.

"(8) The stipulations of the present convention shall be applicable to the colonies and possessions of her Britannic Majesty, with the exception of those here named, that is to say, the East Indies, Canada, Newfoundland, the Cape, Natal, New South Wales, Victoria, Queensland, Tasmania, South Australia, Western Australia, and New Zealand.

"In any case the stipulations of the present convention shall be applicable to any of the colonies above indicated from the time when the British Government shall notify the adhesion of that colony or possession to the other contracting powers. Each of the colonies or possessions above named which may have adhered to the present convention preserves the power of retiring in the same manner as the contracting powers. In case one of the colonies or possessions alluded to should desire to withdraw from the convention, a notification to this effect shall be given by the British Government to the other contracting parties.

"(9) The present convention shall be put in force from ———. It shall remain in force for ten years from that day, and in case none of the high contracting parties shall have notified twelve months before the expiration of the said period of ten years its intention to put an end to it, it shall continue in force for a year, and thus from year to year. In case one of the signatory powers shall denounce the convention, this denunciation shall have no effect save with respect to that power.

"(10) The present convention shall be ratified, and the ratifications shall be exchanged in London within —— months or sooner, if possible."

No. 504.

Mr. Bayard to Mr. Phelps.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 31, 1888.

PHELPS,
Minister, London:

It is reported by the United States consul-general at Halifax that two American fishing vessels have put into that port for repairs, with cargoes of fresh fish on board, and that the Canadian authorities have forbidden the sale of the fish as being in violation of treaty and British statutes. A persistent refusal will necessitate throwing the fish over-

board. Will not this violation of international law and comity be prevented by Great Britain pending our sincere efforts to effect a friendly settlement?

BAYARD.

No. 505.

Mr. Bayard to Mr. Phelps.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 2, 1888.

PHELPS,
Minister, London:

You are directed to express the satisfaction of the Department at the instructions given to the collector of the port of Halifax to allow the fish to be landed and sold on the payment of duty.

BAYARD.

No. 506.

Mr. Bayard to Mr. Phelps.

No. 780.] DEPARTMENT OF STATE,
Washington, February 3, 1888.

SIR: I inclose herewith, for the files of your legation, copies of the telegraphic correspondence which has taken place to date, relative to fishing vessels in Halifax, about which I telegraphed to you on the 31st ultimo.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 780.—Telegram.]

Mr. Phelan to Mr. Rives.

HALIFAX, *January* 30, 1888.

Two fishermen in port. Telegraphed Mr. Bowell, Ottawa, as follows:
"American fisherman in port for repairs. Can he sell fresh fish on board to prevent loss?—Phelan."
Reply: "Mr. Phelan: Selling fish in Canadian market by American fishermen would be a violation of treaty rights and British legislation thereon.—M. Bowell."
Fish must be thrown overboard.

PHELAN.

[Inclosure 2 in No. 780.]

Mr. Rives to Mr. Phelan.

DEPARTMENT OF STATE,
Washington, February 1, 1888.

In regard to the cases at Halifax, reported Monday by you, has any thing further been decided? Telegraph answer.

RIVES.

[Inclosure 3 in No. 780.—Telegram.]

Mr. Phelan to Mr. Rives.

HALIFAX, NOVA SCOTIA, *February* 1, 1888.

Since my last telegram there has been no change. Vessels are not permitted to go on dock. Every one condemns the refusal to allow us to land or sell fresh fish. Permission to cure, but not sell or land the fish, has just been granted.

PHELAN.

[Inclosure 4 in No. 780.—Telegram.]

Mr. Phelan to Mr. Rives.

HALIFAX, *February* 2, 1888.

Permission granted to sell fish upon payment of duty.

PHELAN.

No. 507.

Mr. Phelps to Mr. Bayard.

No. 673.] LEGATION, OF THE UNITED STATES.
London, February 4, 1888. (Received February 15.)

SIR: I have the honor to inclose herewith copies of a telegram which I received from you on the 31st ultimo* and of my reply to the same,† together with those of my note to the Marquis of Salisbury respecting the refusal of the Canadian authorities to allow the cargoes of the two American vessels to be landed at Halifax, and of the answer thereto which I received from the foreign office.

Yesterday morning your telegram of the 2d reached me, and I thereupon addressed to the Marquis of Salisbury, in pursuance of your instructions therein contained, a note, of which I inclose a copy herewith.

I am gratified by the promptitude with which Her Majesty's Government has caused this matter to be satisfactorily settled.

I have the honor, etc.,

E. J. PHELPS.

[Inclosure 1 in No. 673.]

Mr. Phelps to Lord Salisbury.

[Immediate.]

LEGATION OF THE UNITED STATES,
London, February 1, 1888.

MY LORD: I have the honor to acquaint you that I have just received a cable dispatch from my Government informing me that the consul-general of the United States at Halifax has reported that two American vessels laden with fresh fish have been compelled to put into that port for repairs, and that their cargoes will rot unless allowed to be landed, which the Canadian authorities have forbidden as being a violation of the treaty and of British statutes. The consul-general adds that if this refusal be persisted in the fish must be thrown overboard, serious loss being thereby inflicted upon the owners of the vessels.

I am instructed to bring your lordship's attention to this transaction, which is regarded by my Government as a fresh violation of the provisions of the existing treaty between Great Britain and the United States as well as of the ordinary comity that

* See Doc. No. 504, *ante*, page 695. † Not printed herewith.

should subsist between two friendly nations. It is made more pointed by having occurred while the representatives of the two countries are actually engaged at Washington in an effort to adjust the questions in dispute touching the fisheries And it is felt by my Government to be an attempt on the part of the Canadian authorities to bring to bear upon the negotiations a pressure similar to that which they have previously employed to obtain from the United States an alteration of its revenue laws.

I venture to add, my lord, the expression of my opinion that this transaction, if persisted in, will have very grave consequences in its probable effect on the negotiations now pending at Washington.

I have, etc.,

E. J. PHELPS.

[Inclosure 2 in No. 673.]

Sir J. Pauncefote to Mr. Phelps.

[Immediate.]

FOREIGN OFFICE, *February* 1, 1888.

SIR: I have the honor to acknowledge the receipt of your letter this day, relating to the refusal by the Canadian authorities at Halifax to permit two American vessels with fresh fish on board to land their cargoes at that port.

I beg leave to assure you, in reply, that this matter shall receive immediate attention.

I have, etc.,

J. PAUNCEFOTE.
(For the Marquis of Salisbury.)

[Inclosure 3 in No. 673.]

Mr. Phelps to Lord Salisbury.

LEGATION OF THE UNITED STATES,
London, February 3, 1888.

MY LORD: I am instructed by my Government to express to your lordship the satisfaction it has felt with the prompt and effectual interposition of Her Majesty's Government in the matter of certain American fishing vessels at Halifax, mentioned in my note to your lordship of February 1, and in Sir Julian Pauncefote's note of the same date, in reply.

And I have the honor to be, etc.,

E. J. PHELPS.

No. 508.

Mr. Bayard to Mr. Phelps.

[Confidential.]

No. 791.] DEPARTMENT OF STATE,
Washington, February 17, 1888.

SIR: I transmit herewith translation of a note received by me on the 15th instant, wherein the Venezuelan minister sets forth the information lately supplied to him, to the effect that the legislature of Demerara has recently asserted a claim to British jurisdiction over the gold-mining district of Caratal, on the headwaters of the Yuruari River, and that by a decree of the governor of British Guiana, dated December 31, 1887, formal denial is made of the validity of a grant by the Venezuelan Government for the construction of a railway from Ciudad Bolivar to Guaci-

MAPA
DE LA
PARTE ORIENTAL
DE
VENEZUELA
PARA MOSTRAR LAS INVASIONES REALIZADAS
POR EL GOBIERNO BRITANICO
EN EL TERRITORIO DE LA REPUBLICA.

1887

Dibujado p. Jesus Muñoz Tébar, Ingeniero.

PUBLICADO DE ORDEN DEL
ILUSTRE AMERICANO
GENERAL GUZMAN BLANCO
PRESIDENTE DE LA REPUBLICA

NOTA: *Los puntos rojos entre los rios Amacuro i Guaima indican los vecindarios donde ultimamente el gobierno ingles ha nombrado Comisarios, cobra contribuciones &a*

Longitud al Occidente de Greenwich

64 63 62 61 60 59 58

11 10 9 8 7 6 5 4 3

I. Margarita
I. Tobago
I. Coche
Golfo Cariaco
Cariaco
TRINIDAD
GOLFO PARIA
BOCAS DEL ORINOCO
Rio Guarapiche
Maturin
Rio Guanipa
Rio Tigre
Caño Vagre
Caño Cucuina
Caño Pedernales
Caño Manamo
Caño Manamito
Tabasca
Tiracoa
Barrancas
BRAZO MACARO
Araguao
Marinsa
ROCA GRANDE
Pta Mocomoco
Pta Sabaneta
Pta Barima
Isla Barima
Cuiapo
I. Imataca
BRAZO IMATACA
BRAZO BARIMA
Morajuana
Rio Amacuro
Rio Aguire
Rio Arabire
Rio Imataca
Soledad
RIO ORINOCO
Bolivar
Isla Tortola
Piacoa
Upata
MONTES IMATACA
RIO CARONI
MINAS DE ORO DEL CARATAL
Rio Yuruari
Rio Corumo
Mcos Yaruari
Rio Barima
Rio Barama
Rio Guaima
Rio Amacuro
Rio Guanipa
Punta Cocales
Caño Morebo
Caño Paraguan
Caño Barama
Cabo Nassau
Rio Moroco
Rio Punderon
Guabana
Rio Ayrechica
Rio Camarata
Rio Cuyuni
Rio Venamu
Rio Ruarua
Rio Yuruan
Rio Usupamo
Rio Carapo
RIO PARAGUA
Rio Uriman
Rio Icabaro
Rio Caroni
SIR ROBERT SCHOMBURGK
INDICADA POR
LINEA CAPRICHOSA
RIO CUYUNI
Territorio que Venezuela considera usurpado por los ingleses
Minas de oro que se estan explotando por autoridad del Gobierno de la Guayana Británica
Georgetown
Rio Purúni
RIO MAZARUNI
RIO ESEQUIBO
Rio Demerara
Rio Caco
Monte Roraima
Rio Potaro
Rio Siparuni
Rio Majá
Rio Colinga
Rio Maria
Rio Maiyari
Rio Parima
Rio Tacutu
Rio Rupumuni
Rio Reva
Rio Esequibo
GUAYANA BRITANICA
Territorio que Venezuela considera usurpado por los ingleses
Se estiende al Sur hasta la Sierra Acarai.
RIO BRANCO
IMPERIO DEL BRASIL

paté, a city in the Caratal district, on the ground that it passes "in and over certain territories and lands within and forming part of the colony of British Guiana."

No other foundation for the minister's statement appears than the article in the Financier of January 24, to which Mr. Olavarria's informant refers.

The Government of the United States has hitherto taken an earnest and friendly interest in the question of boundaries so long in dispute between Great Britain and Venezuela, and, so far as its disinterested counsels were admissible, has advocated an amicable, final, and honorable settlement of the dispute. We have followed this course on the assumption that the issue was one of historical fact, eminently adaptable for admitting arbitration, and that the territorial claims of each party had a fixed limit, the right to which would without difficulty be determined according to the evidence.

The claim now stated to have been put forth by the authorities of British Guiana necessarily gives rise to grave disquietude, and creates an apprehension that the territorial claim does not follow historical traditions or evidence, but is apparently indefinite. At no time hitherto does it appear that the district of which Guacipatí is the center has been claimed as British territory or that such jurisdiction has ever been asserted over its inhabitants, and if the reported decree of the governor of British Guiana be indeed genuine it is not apparent how any line of railway from Ciudad Bolivar to Guacipatí could enter or traverse territory within the control of Great Britain.

It is true that the line claimed by Great Britain as the western boundary of British Guiana is uncertain and vague. It is only necessary to examine the British colonial office list for a few years back to perceive this. In the issue for 1877, for instance, the line runs nearly southwardly from the mouth of the Amacuro to the junction of the Cotinga and Takutu Rivers. In the issue for 1887, ten years later, it makes a wide detour to the westward, following the Yuruari. Guacipatí lies considerably to the westward of the line officially claimed in 1887; and it may perhaps be instructive to compare with it the map which doubtless will be found in the colonial office list for the present year.

It may be well for you to express anew to Lord Salisbury the great gratification it would afford this Government to see the Venezuelan dispute amicably and honorably settled, by arbitration or otherwise, and our readiness to do anything we properly can to assist in that end.

In the course of your conversation you may refer to the publication in the London Financier of January 24 (a copy of which you can procure and exhibit to Lord Salisbury), and express apprehension lest the widening pretensions of British Guiana to possess territory over which Venezuelan jurisdiction has never heretofore been disputed may not diminish the chances for a practical settlement.

If, indeed, it should appear that there is no fixed limit to the British boundary claim, our good disposition to aid in a settlement might not only be defeated, but be obliged to give place to a feeling of grave concern.

I append, for your information, a copy of the map recently printed, with the boundary correspondence, by Venezuela, on which are roughly penciled the situation of Guacipatí and the line of demarkation according to the colonial office list for 1887. The line for 1877 nearly follows that shown on the map as "Sir Robert Schomburgk's line."

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 791.—Translation.]

Mr. Olavarria to Mr. Bayard.

LEGATION OF THE UNITED STATES OF VENEZUELA,
Washington, D. C., February 15, 1888.

EXCELLENCY: I have just received from the legation of Venezuela in Paris the important dispatch which I have the honor to transcribe to your excellency, as follows:

"PARIS, *February* 3, 1888.

"SIR: I send you, herewith inclosed, a cutting from the Financier, of London, the number for January 24. You will thereby see that the English invasions of Venezuelan territory not only continue but are being boldly extended, and are about to reach the territory of the Yuruari.

"On the 29th of November there was proposed to the colonial legislature of Demerara the construction of a railway which, crossing the Mazaruni and Cuyuni Rivers, will extend to the boundaries of the colony. In the course of the discussion it was said that the Yuruari district was included within those boundaries. It was the Queen's proctor who alleged this and who demanded urgency in the consideration of the measure.

"By the inclosed paper you will perceive that the bill was approved; that an armed force has been dispatched to the Yuruari; and that no resistance was there apprehended, because the Venezuelan inhabitants barely reached one hundred in number, the rest being English. In the same paper is copied a decree of the governor of Demerara, dated December 31, 1887, denying the validity of a contract entered into by the Government of Venezuela for opening a railway from Ciudad Bolivar to Guacipati. It thus appears that they content themselves with no less than the possession of the mining district of the Yuruari, as well as the Orinoco, not merely as far as the Amacuro, but up to Ciudad Bolivar. I deem it urgent that you should lay these facts before Mr. Bayard and represent to him the scandalous progress of the British usurpations in Venezuelan territory."

With these facts before you your excellency must be convinced that the British Government in such proceedings follows a preconceived plan with the object of gaining possession in the shortest time possible of the whole of the territory of Venezuelan Guiana and of the most important of South America rivers.

Already this movement is no longer concealed under pretended boundary rights; it is no longer confined to the capricious lines mapped out by adventurous engineers upon the charts of that important region in obedience to the will which pays them. England has at last declared emphatically that her rights are without limit and embrace whatever regions may be suggested to her by her insatiable thirst for conquest. She even goes so far as to deny the validity of railway grants comprised within territory where not even the wildest dreams of fancy had ever conceived that the day would come when Venezuela's right thereto could be disputed.

The fact is, that until now England has relied upon impunity; she beholds us a weak and unfriended nation, and seeks to make the Venezuelan coast and territories the base of a conquest which, if circumstances are not altered, will have no other bounds than the dictates of her own will.

And I can see no reason for such indifference on the part of the sole Government to whom it belongs, if only for its own convenience, to put a stop to such pretensions. I do not see why we are to be denied the inestimable intervention which with such success has been vouchsafed to others. I again implore the Government of the United States, through your excellency, in the trust that this time, in view of the evident and shameless (*descarada*) intention of the English Government, your excellency will find it opportune and necessary to put an end to so great an abuse.

I renew, etc.,

J. A. OLAVARRIA.

[Inclosure 2 in No. 791.—The Financier, Tuesday, January 24, 1888.]

THE BRITISH GUIANA BOUNDARY QUESTION.

By advices just received from Demerara, regarding an official proclamation by the British Guiana Government, a copy of which we publish in another portion of our present issue, it would appear that the promoters and friends of the once illustrious and powerful General Guzman Blanco have met with a severe check in connection with their proposed railway from the Orinoco to the Yuruari district.

The proclamation in question has not been arrived at without full and good consideration by Her Majesty's Government, extending over a period which persons interested consider has been unduly prolonged. Such being the case, it is not likely, as a Georgetown contemporary states, that the Imperial Government, having arrived at certain conclusions, are otherwise than in earnest to settle once and for all this long-pending boundary question. The question has now remained *in statu quo* for nearly half a century, necessarily to the great detriment of the colony, and has retarded, as might have been expected, the internal growth and development of British Guiana. We need hardly say that the moving spirit in bringing all the facts to the knowledge of the British Government has been Mr. Hugh Watt, to whom, therefore, the colony are infinitely indebted for the happy issue which has been tardily but at last arrived at.

A review of the history of the colony since its formation in 1570 leaves, we think, no room for doubt that the Venezuelans have gradually extended their jurisdiction mile by mile to the south until they have become trespassers upon a large amount of British territory. That they should have done so is not astonishing, in view of the rich discoveries of gold which were made about 1870.

Since that date it has been amply proven by the large and increasing monthly exportation of gold which has taken place from Las Tablas, the shipping port heretofore for the Yuruari mines, that the region in question is one of the richest gold-producing territories in the world.

The town of Guacipati was formerly the seat of government, and is situated about 15 miles to the north of the Yuruari River. The British Government, therefore, apparently mean to lay claim to the line indicated by Humboldt, and which has since been ably advocated by Mr. Watt as the northwest boundary between British Guiana and the States of Venezuela.

The energetic action of the colony in dispatching an armed force is worthy of commendation, and we quite agree with a local contemporary, who states that no resistance need be feared, looking at the fact that hardly one hundred of the residents south of the Yuruari are Venezuelans, and that nearly all the better class of those as earnestly desire the change of rule as the British or German inhabitants. We understand that nearly all the mines in the district belong to English subjects, and with regard to the population, at least three-fourths, if not a larger percentage, are British subjects, the German element constituting a comparatively small section of the community, and a majority of those being store-keepers or their assistants. We notice that the colony have already taken active steps for the formation of a road to the Yuruari, and that the court of policy have unanimously approved the action.

It now, therefore, only remains to cement this connection by the establishment of railway and telegraphic communication with the mines, which will then place Demerara and the English mining properties, in which from first to last nearly ten millions of money have been sunk, in communication day by day with their superintendents and managers at the mines. It is hardly necessary to add that such communication will once and for all put an end to the difficulties which have arisen from time to time, owing to the fact that the managers at the mines are virtually their own masters, being under no adequate control, and as such were recognized by the Venezuelan code, which declined to recognize the proprietors of these mines, but looked to and held responsible exclusively the resident attorney, who was invariably the superintendent.

The New Chili Gold Mining Company, Limited.—A British Government proclamation.

We are informed by the secretary that this company have received the following telegram from the mines:

"Guacipati, fifth; 900 ounces; nineteen days' work; twenty-five stamps. Strike miners. Works stopped. Ackman."

The agents at Trinidad add the following to the cablegram:

"Above was delayed. Letter 14th advises work resumed 16th. Harriman."

The official memorandum states:

"The manager confirms the recent opinions he expressed with regard to the quartz, and in a private letter states that, provided sufficient miners can be obtained to raise quartz enough to keep the sixty stamps running, the return ought now to be as high as during any past period. The miners having again resumed work, there ought therefore to be no difficulty with regard to this.

"The mail just to hand being the mid-monthly mail, and leaving the mines a day sooner than was anticipated, the manager's letter is a hurried one."

And the secretary adds the following important intelligence:

"It will be gratifying information to the shareholders of this company to learn by a public proclamation to the following effect, the territory in which the mines are situated may now be looked upon as British property. This in time will have a revolutionizing effect upon all charges connected with the mines, and, with the pros-

pects at last before the company of good paying quartz, even under the old Venezuelan régime, the directors see no reason why this company should not shortly be in a flourishing condition.

"Copy of proclamation.

"BRITISH GUIANA:

"By his excellency Charles Bruce, esquire, companion of the Most Distinguished Order of St. Michael and St. George, lieutenant-governor and commander-in-chief in and over the colony of British Guiana, vice-admiral and ordinary of the same, etc.

"Whereas it has come to the knowledge of the Government of British Guiana that certain concessions have been granted by the President and by and with the sanction of the Government of the United States of Venezuela, purporting to give and grant certain rights and privileges for constructing a railway to Guacipati, and in and over certain territories and lands within and forming part of the colony of British Guiana;

"Now, therefore, I do hereby intimate to all whom it may concern that no alleged rights purporting to be claimed under any such concession will be recognized within the said colony of British Guiana, and that all persons found trespassing on or occupying the lands of the colony without the authority of the Government of this colony will be dealt with as the law directs.

"Given under my hand and the public seal of the colony Georgetown, Demerara, this 31st day of December, 1887, and in the fifty-first year of Her Majesty's reign. God save the Queen.

"By his excellency's command.

"GEORGE MELVILLE,
"Acting Government Secretary."

No. 509.

Mr. Bayard to Mr. Phelps.

No. 798.] DEPARTMENT OF STATE,
Washington, February 21, 1888.

SIR: With reference to previous correspondence concerning the boundary question pending between Great Britain and Venezuela, I now inclose herewith for your confidential information a copy of my note of the 18th instant to Mr. Olavarria on the subject, and a translation of his reply thereto of the 20th instant.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 798.]

Mr. Bayard to Señor Olavarria.

DEPARTMENT OF STATE,
Washington, February 18, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant, in which you communicate to me information furnished to you by the Venezuelan legation at Paris, to the effect that the legislature of Demerara has recently asserted a claim to British jurisdiction over the country along the Yuruari River; and that by a decree of the governor of British Guiana dated December 31, 1887, denial is made of the validity of a grant by the Venezuelan Government for the construction of a railway from Ciudad Bolivar to Guacipatí, a city in the Caratal mining district, on the ground that the road in question passes "in and over certain territories and lands within, and forming part of, the colony of British Guiana."

No other foundation for the statement made to you by the representative of Venezuela, at Paris, appears than the article in the London Financier of January 24, of which you give me a copy. If you have any further information touching the railway grant mentioned, showing whether the projected road runs only from Ciudad Bolivar to Guacipatí, or branches eastward from the latter point, it might aid in rightly understanding the claim now put forth by the authorities of British Guiana.

Meanwhile I have deemed it proper to send a confidential copy of your note and its inclosure to the United States minister in London, in order that, with fuller information, he might continue to urge an amicable settlement and be better enabled to continue his disinterested representations to secure abstinence from unjust or injurious proceedings by the British Government against the interests or jurisdiction of the Republic of Venezuela.

Accept, etc.,

T. F. BAYARD.

[Inclosure 2 in No. 798.—Translation.]

Mr. Olavarria to Mr. Bayard.

LEGATION OF THE UNITED STATES OF VENEZUELA,
Washington, February 20, 1888.

EXCELLENCY: I have had the honor to receive your excellency's note dated the 18th instant, in which, while acknowledging the receipt of mine of the 15th of the same month, your excellency is pleased to request of me any other information I may possess touching the grant of the projected railway from Ciudad Bolivar to Guacipati which may help to a better understanding of the objection raised by the authorities of British Guiana.

I have likewise read with the greatest thankfulness—a sentiment which I have the honor to express to your excellency in the name of my Government as well as in my own—the information you are pleased to give me that you have instructed his excellency the minister of the United States in London in the sense that he is to endeavor to bring about a friendly settlement, and to continue his disinterested offices to insure the cessation of unjust and prejudicial proceedings on the part of the British Government against the interests and the jurisdiction of the Republic of Venezuela.

The grant for the railway from Ciudad Bolivar to Guacipati does not fix in advance the line of transit, but it is enough to cast a glance at the map of Venezuela to be immediately convinced that the natural line can not embrace any part of the territory of British Guiana, even accepting as legitimate the most advanced frontier line of the three which have been claimed in succession by the British Government from 1840 to 1881.

The grant in question is one to private individuals, who will certainly have no intention, in undertaking the work, to deviate from the most direct and nearest line to the prejudice of their own interests, since nothing else can enter into their calculations than the reduction, as far as possible, of the distance and the cost of the work.

This is why attention is being drawn to the claim of invaded rights put forth by the authorities of British Guiana, a claim that can spring from no justified right, but rests solely on the very recent pretension of extending their frontiers far enough to enable them to seize the rich mining region of the Yuruari. All the steps and invasions of the usurper lead to this end, and only thus can be explained the circumstances of his attempting in advance to judge of a grant so far away from his borders that the act can only be regarded as a confirmation of his new usurpation. And thus will he continue, your excellency, to advance more and more, day by day, ever claiming to be within his boundaries.

Disastrous and fatal consequences would ensue for the independence of South America if, under the pretext of a question of boundaries, Great Britain should succeed in consummating the usurpation of a third part of our territory and therewith a river so important as the Orinoco. Under the pretext of a mere question of boundaries, which began on the banks of the Essequibo, we now find ourselves on the verge of losing regions lying more than five degrees away from that river; and under the same pretext a stride has been made from Cape Nassau to the seizure of the island of Barima at the mouth of the Orinoco.

I greatly rely on the friendly and disinterested offices of the Government of the United States; but in the supposition that the British Government will continue to regard the case as a simple question of frontiers, and will keep on protesting that she is operating within her territory, it occurs to me to respectfully suggest to your excellency that the opportunity has come for the Government of the United States, in view of the recent occurrences, to regard the question under a different aspect which will allow of a speedy and definitive settlement through the means of its effective intervention. I am sure that its authoritative voice would be heard with respect.

With the assurance, etc.,

J. A. OLAVARRIA.

No. 510.

Mr. Bayard to Mr. Phelps.

No. 809.] DEPARTMENT OF STATE,
Washington, March 1, 1888.

SIR: I have had the honor to receive, under date of the 8th ultimo, a note from Her Britannic Majesty's minister at this capital, in relation to a case of criminal assault of a German upon a British subject at Apia, in which there was a contest between the German consul and the municipal court as to jurisdiction.

The defendant, named Marquardt, being a German, and the offense being a criminal assault, the Imperial German consul claimed the right to try the case as coming within his exclusive jurisdiction, and denied the right of the municipal judge, before whom the prosecution had been pending, to take further cognizance of it.

In October last the controversy above stated was brought by the German chargé at this capital to the notice of the Department, the consul of the United States in Apia having as president of the municipal board taken the lead in asserting its jurisdiction. Upon an examination of the case, the Department came to the conclusion that the jurisdiction of the municipality was doubtful and instructed the American consul not to press the controversy further.

Her Majesty's Government having learned the opinion of this Department, the British minister here was instructed to inquire whether, upon an examination of the facts which he communicated in his note above referred to, this Government still concurred in the views of the German Government from which Her Majesty's Government dissented. Before receiving this note of the British minister the Department had received information which seemed to render superfluous any further discussion as to the jurisdiction of the municipal court.

For on the 14th of October last the German consul, with the assent of the British consul, declared the municipal government to be in abeyance because of an alleged refusal of the American consul to attend on that day a special meeting of the municipal board. As the Department is informed, the American consul was already near the place of meeting at the time the German consul took the course stated, and had accompanied the British consul three-fourths of the way to the court-house, when, recollecting some papers which he had intended to bring with him from his office, he returned thither for them and was thus delayed.

On the 27th ultimo the Department received a dispatch from the Americal consul, Mr. Sewall, dated January 28, 1888, copy of which is inclosed, in which he communicated to the Department copy of a note of the 18th of January from the German consul at Apia, declaring the formal withdrawal of the Imperial German Government from the municipality convention of the 2d of September, 1879, and offering to enter into negotiations with the American and British consuls for a division of the property of the municipality.

To this dispatch of the American consul a reply was made, copy of which is inclosed.

You are instructed to bring the matter to the attention of Her Majesty's Government, and inquire whether they have accepted the notice of Germany's withdrawal from the municipality convention, and if so, whether they have instructed their consular representative at Apia, as to the course he shall pursue in regard to the municipal property and funds.

I am, sir, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 809.]

Mr. Sewall to Mr. Rives.

No. 83.] CONSULATE-GENERAL OF THE UNITED STATES,
Apia, Samoa, January 28, 1888.

SIR: I have the honor to transmit herewith copy of communication from the Imperial German consul in which he gives notice of the immediate withdrawal of his Government from the municipality convention of 2d September, 1879, prolonged by the protocol of 29th September, 1883.

In this communication he also informs me that he is ready to enter into negotiations with me and the British vice-consul respecting a division of the property of the former municipality. I have acknowledged the receipt of this communication and await the Department's instructions.

I have, etc.,

HAROLD MARSH SEWALL,
Consul-General.

[Inclosure 2 in No. 809.—Translation.]

Mr. Becker to Mr. Sewall.

IMPERIAL GERMAN CONSULATE FOR THE SOUTH SEA ISLANDS,
Apia, January 18, 1888.

SIR: The Imperial German Government has arrived, through the events of last year, at the conviction that the municipality convention of September 2, 1879, prolonged by the protocol of September 29, 1883, for an indefinite time, has become impracticable under the present circumstances.

The Imperial Government has resolved upon exercising the right belonging to each party of giving notice of immediate withdrawal, and has authorized me to declare hereby its formal withdrawal from the above-mentioned convention.

For making use of the authority given to me, I have the honor to inform you that for the purpose of division of the sum of money deposited with Mr. Hamilton, United States vice-consul, and the other property of the former municipality, I am ready to enter into negotiations with you and Her Britannic Majesty's consul here.

I beg you will be so kind as to acknowledge receipt of this letter.

I have the honor, etc.,

BECKER,
Imperial German Consul.

[Inclosure 3 in No. 809.]

Mr. Sewall to Mr. Rives.

No. 84.] CONSULATE-GENERAL OF THE UNITED STATES,
Apia, Samoa, January 28, 1888.

SIR: I have the honor to transmit herewith copies of proclamation signed by Tamasese and Braudeis, announcing that in consequence of the withdrawal of the Imperial German Government from the convention of September 2, 1879, the former municipal district passes under the control of this Government, and declaring which of the former municipal regulations are still in force. Foreigners are left under foreign jurisdiction.

I have the honor, etc.,

HAROLD MARSH SEWALL,
Consul-General.

[Inclosure 4 in No. 809.—Translation.]

HOUSE OF THE KING.

I Tuiaana Tamasese, the King.

The Imperial German Government has given notice of withdrawal from the convention of September 2, 1879, concerning the municipality.

Through this notice the municipality has ceased to be in force.

The former municipal district passes again under the control of my Government.

The municipal regulations 8 to 20, 25, 28, 30 to 37, 39 to 42, 59, 61, 62, 64 to 71, 74 to 76,

83 to 86, 97, 108 to 111, 114 to 116, 118 to 120, 122, 124, 127 to 129, 131 to 138, are hereby declared to be laws of Samoa and continue to be in force for all persons residing within the former municipal district, with the exception of those foreigners who are under foreign jurisdiction.

In the above-mentioned regulations the judge appointed by me takes the place of the "magistrate" and "chief of police," and my Government the place of "consuls" and of the "municipal board."

Capital of Samoa, Mulinuu, January 18, 1888.

I Tuiaana TAMASESE,
King of Samoa.
BRANDEIS.

[Inclosure 5 in No. 809.]

Mr. Rives to Mr. Sewall.

No. 42.] DEPARTMENT OF STATE,
Washington, February 28, 1888.

SIR: I have received your No. 83 of the 28th ultimo inclosing a copy of a note from the Imperial German consul at Apia, in which he gives notice of the withdrawal of his Government from the municipality convention of September 2, 1879, and states that he is ready to enter into negotiations with yourself and the British consul for a division of the property of the municipality. As you are aware, the United States is not formally a party to that convention, and is therefore not in a position to discuss with Germany the right of her withdrawing therefrom. It is understood, however, that the parties to the convention, Germany and Great Britain, each reserved the right of withdrawing at pleasure. And if Her Britannic Majesty's consul is instructed by his Government to treat the convention as at an end, it will be regarded by this Government as no longer existing. In such case, it will be necessary for this Government to secure its share in the property belonging to the municipality, which received the practical support of the United States and the substantial support of its citizens in Apia.

In regard to entering into a negotiation for such a division it will be proper for you to consult the British consul, who will be guided in his action by the instructions of his Government. Should he be instructed to enter into a negotiation for the division of the property in question, you are instructed to pursue the same course, as there would then be no doubt as to the municipality having been abandoned by the contracting parties.

I am, etc.,

G. L. RIVES,
Assistant Secretary.

No. 511.

Mr. Bayard to Mr. Phelps.

No. 830.] DEPARTMENT OF STATE,
Washington, March 22, 1888.

SIR: Your dispatch, No. 652, of 7th January last, transmitting Mr. White's interesting and valuable report of the proceedings at the International Sugar Bounties Conference, held at London between the 24th November and 19th December, 1887, inclusive, was duly received; also your later dispatches on the same general subject, Nos. 666, of 21st January; 672, of 28th January; 678, of 11th February; 684, of 14th February, 1888.

Action on the subject has been delayed, awaiting the receipt of the printed English translation of the voluminous *procès-verbaux* of the conference, which, from Mr. White's report, it was supposed would be issued early in February, but has not yet reached me. In the absence of such translation and in view of the impossibility of preparing one in this Department with the limited force at command, the matter has not been in shape either for consultation with the Secretary of the Treasury or for communication to Congress.

My attention is, however, urgently drawn to the subject by a note addressed to me by Sir Lionel West, the British minister, received on the 20th instant, representing the great importance which Her Majesty's Government attaches to the presence of a delegate from the United States Government at the approaching sugar conference, which opens on the 5th of April, proximo, and that "the negotiations can not be carried to a successful issue unless the United States take part in them."

I have replied to Sir Lionel, stating the reasons why this Government is at this time unprepared to take part in the approaching conference to the extent of signing the projected convention, or indeed, I may say, any convention calculated to affect the constitutional right of the House of Representatives to originate measures for raising revenue, but expressing willingness, if desired by Her Majesty's Government, to direct the attendance of Mr. White at the second conference as the delegate of the United States, under the reserve stated. A copy of Sir Lionel's note and of my reply is herewith inclosed.

If the response to my inquiry be favorable, a telegram, with the correspondence now transmitted, will enable you to instruct Mr. White concerning his duties as a delegate and the limitation of his powers.

By the protocol of the 19th December it was provided that governments contemplating adhesion to the proposed convention should give notice of such intention before March 1 instant, communicating at the same time the system of taxation they may propose for carrying out its provisions, and the method and limits of employing saccharometric tests. As this Government is at present unprepared to accept the convention itself, it is likewise unprepared to give the detailed statements suggested, especially as the nature of the sugar tests and the scheme of tax collection in this country are pending subjects of legislation.

I also transmit for your legation files, copy of a note addressed to me by Sir Lionel on January 14 last, expressing the thanks of Her Majesty's Government for the attendance of Mr. White at the conference, also a copy of a memorandum handed to me by Sir Lionel West, on the 7th instant.

I am, etc.,

T. F. BAYARD.

INCLOSURES.

For Sir L. West to Mr. Bayard, March 19, 1888, see Doc. No. 561, post, page 792.
For Mr. Bayard to Sir L. West, March 21, 1888, see Doc. No. 563, post, page 793.
For Sir L. West to Mr. Bayard, January 14, 1888, see Doc. No. 549, post, page 775.
For memorandum of Sir L. West, received March 7, 1888, see Doc. No. 557, post, page 789.

No. 512.

Mr. Bayard to Mr. Phelps.

[Telegram.]

DEPARTMENT OF STATE,

Washington, March 27, 1888.

PHELPS,
Minister, London:

Bounties are opposed by this Government, and no subsidies of any kind are paid by it.

The revision of the tariff is now pending in Congress, and the Treasury recommends an adjustment of rebates.

Excise on domestic sugar production can not be established by the United States, nor can it abolish impost duties by treaty, nor sign the convention proposed, but reserves the right to conform to international arrangements hereafter by independent legislation.

The British minister has been asked if, with this understanding, attendance of delegates is desirable. On 23d, mailed instructions. Your No. 701 received.

BAYARD.

No. 513.

Mr. Phelps to Mr. Bayard.

No. 709.] LEGATION OF THE UNITED STATES,
London, March 31, 1888. (Received April 10.)

SIR: Referring to your instruction numbered 809, of March 1, I have the honor to acquaint you that I lost no time in asking the Marquis of Salisbury for the views of Her Majesty's Government with respect to the present condition of affairs at Apia, and I beg to inclose herewith a copy of his lordship's reply.

I have the honor to be, etc.,

E. J. PHELPS.

[Inclosure in No. 709.]

Sir J. Pauncefote to Mr. Phelps.

FOREIGN OFFICE, *March* 24, 1888.

SIR: I have the honor to acknowledge the receipt of your communication of the 14th instant, in which you inform me that the United States consul at Apia has received from the German consul at that place a dispatch notifying him of the formal withdrawal of Germany from the Apia municipal convention of September 2, 1879, and you inquire whether Her Majesty's Government have accepted the notice of Germany's withdrawal from the convention in question, and, if so, whether they have instructed the British consular representative at Apia as to the course he shall pursue with regard to the municipal property and funds.

I have to acquaint you that in reply to a representation of the German Government that the continuance of the municipal government of Apia had become impracticable, Her Majesty's ambassador at Berlin was directed, on the 24th ultimo, to suggest its termination. No reply has yet, however, been received to that communication from the German Government, who have also been asked for their views as to how the property of the Apia municipality should be divided.

Pending a further and definite agreement between the treaty powers upon the subject, the acting British consul in Samoa has been directed to consider the convention of 1879 as suspended; to recognize the jurisdiction of the Samoan Government as that of the *de facto* Government in the district in question; and in the mean time to revert to the exercise of his ordinary consular jurisdiction in Apia, as well as in the rest of the Navigator's Islands.

I have, etc.,

J. PAUNCEFOTE.
(For the Marquis of Salisbury.)

No. 514.

Mr. White to Mr. Bayard.

No. 722.] LEGATION OF THE UNITED STATES,
London, April 14, 1888. (Received April 23.)

SIR: Referring to my dispatch No. 719, of 6th instant, I have the honor to acquaint you that there have been two sittings this week (on

the 10th and 13th) of the International Sugar Conference, at both of which I was present; and I inclose herewith the English translation of a brief statement, based upon your recent instructions, which I made at the first of these meetings, and of which I venture to hope that you will approve.

The conference adopted on the 10th instant the preamble and Article I of the draught convention, as signed in December last, the words "and to propose to their respective legislatures" being omitted from the latter for reasons set forth in the *procès verbal*.

Yesterday's sitting, which lasted three hours, was chiefly occupied in discussing the method of procedure with regard to the remaining articles of the convention, especially Article II, which is likely to give rise to a large number of technical details, and it was finally decided to appoint a committee to consider these points and to report thereupon from time to time to the conference.

I shall hope to forward next week the printed minutes of these two sittings, and also the replies made by the different powers who signed the protocol in December last to this Government respecting the same.

I also inclose herewith the copy of a telegram, which appeared two days ago in the London papers, from Lille, where an important election to the French Chamber of Deputies is now pending. From this it would seem that the French delegates to the conference are not authorized to ratify the convention unless all the sugar-producing countries agree to do likewise.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 722.]

Translation of statement made by Mr. White at the meeting of the sugar conference on the 10th April, 1888.

My Government is opposed to bounties of all kinds.

The United States pays no direct bounties, and the Secretary of the Treasury, in his last report to Congress upon the condition of the national finances, recommended the abolition of the small indirect bounty occasioned by the slight difference which still exists between drawbacks and the import duties.

It is impossible, however, for my Government to adhere to the proposed convention for several reasons.

In the first place, the signature of any such convention would interfere with the right reserved by the Constitution to the House of Representatives of originating all measures affecting the public revenue; neither would it be possible in the United States to establish an excise tax upon the domestic production of sugar, nor to abolish import duties by treaty.

But my Government reserves to itself the full right to conform by legislation hereafter to the international arrangements which may be adopted for the abolition of export bounties on sugar.

[Inclosure 2 in No. 722.—The Times, Thursday, April 12, 1888.]

Sugar bounties.

LILLE, *April* 11.

To-day, during the sitting of the council-general of the Nord, the prefect read a telegram from the minister of finance contradicting the report that the French delegate at the sugar conference in London had accepted in the name of the French Government the proposal for the suppression of the bounties on sugar. The minister explains that the delegate received instructions to adhere to the suppression of the bounties only in the case of an understanding being arrived at among all the interested countries.

No. 515.

Mr. White to Mr. Bayard.

No. 726.] LEGATION OF THE UNITED STATES,
London, April 21, 1888. (Received April 30.)

SIR: Referring to my dispatches Nos. 719 and 722, I have the honor to inclose herewith three copies of the *procès-verbaux* of the eighth and of the ninth sittings of the international sugar conference.

You will observe that at the latter the United States occupied a considerable portion of the attention of the delegates, who were exceedingly desirous, after my statement (page 3), to ascertain what prospects there might be of our joining the convention hereafter.

Austria-Hungary, France, and Germany are exceedingly anxious as to our probable course should the convention be ratified, and the delegates of those countries appeared to consider as unfavorable to the hopes of the conference in the matter the report to the effect that the Committee of Ways and Means, before reporting the tariff bill to the House of Representatives, had withdrawn the clause suppressing drawbacks on sugar.

There have been two sittings of the conference during the past week, both of which I have attended; but the revised *procès-verbaux* have not yet reached me, and I shall only be able to forward them next week.

I have the honor furthermore to inclose the memoranda* furnished to the British Government by the powers represented at the previous session of the conference, and embodying their views with respect to its conclusions and to the draught convention.

You will observe that Brazil and Sweden are not now represented at the conference, but the inclosed memoranda from those Governments show that the former will adhere when the convention, as formally ratified, is received; and that the latter is in entire sympathy with the proposed abolition of bounties, but deems it unnecessary to send a delegate to the conference, as the quantity of sugar exported from Sweden is so small.

The Belgian proposals, referred to at length in my report of last January, have not yet been discussed, but strong objection is made to them in the memoranda of Holland, Austria, and Germany, and they will have to be modified, all the principal powers being opposed to them.

The Austro-Hungarian memorandum distinctly states that the convention will be without effect unless the United States be a party thereto, and the same is implied in that of Germany. Such is also the opinion of the French Government, and I think it very doubtful whether these three powers will allow a convention for the abolition of sugar bounties to come into force until the United States shall have agreed to adhere to its provisions, unless the Spanish proposal to insert a penal clause, which certain Governments now appear to consider impracticable, should turn out to be feasible.

I have, etc.,

HENRY WHITE.

* Not translated and not printed herewith.

No. 516.

Mr. White to Mr. Bayard.

No. 729.] LEGATION OF THE UNITED STATES,
London, April 25, 1888. (Received May 5.)

SIR: With reference to my dispatch No. 726, and to previous correspondence on the sugar-bounties question, I have the honor to inclose herewith a memorandum which I have received from Mr. Walpole, director of Her Majesty's customs at Dublin, and one of the British delegates to the international sugar conference.

This memorandum contains a computation made here of the present indirect bounty on sugar in the United States, caused by excess of drawback over duty, and several members of the conference are very desirous of ascertaining whether the figures therein contained are correct.

I shall be much obliged if you will be so good as to cause this memorandum to be referred to the proper department of the Treasury, with a view to obtaining an expression of opinion on the subject.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 729.]

Memorandum on the indirect bounty granted on sugar exported from the United States.

The duty on raw sugar is now levied in proportion to the pure sugar contained in it, the scale beginning at the bottom with sugar containing 75 per cent. of pure sugar, which is charged with duty of 1.40 cents per pound, and going up at the rate of 0.04 cent per pound for every additional percentage of pure sugar, so that 100 per cent. of pure sugar, *i. e.*, pure sugar, would pay 2.40 cents per pound. The drawback granted on the exportation of pure sugar is 2.60 cents per pound. It is evident according to this scale of duties, that a raw sugar containing 76 per cent. of pure sugar is estimated to yield $\frac{1.44}{2.40} \times 600$, or 60 per cent. of pure sugar, and so on up the scale, which therefore runs thus:

	Per cent.
Raw sugar containing 76 per cent. of pure sugar is estimated to yield	60
Raw sugar containing 79 per cent. of pure sugar is estimated to yield	65
Raw sugar containing 82 per cent. of pure sugar is estimated to yield	70
Raw sugar containing 85 per cent. of pure sugar is estimated to yield	75
Raw sugar containing 88 per cent. of pure sugar is estimated to yield	80
Raw sugar containing 91 per cent. of pure sugar is estimated to yield	85
Raw sugar containing 94 per cent. of pure sugar is estimated to yield	90
Raw sugar containing 97 per cent. of pure sugar is estimated to yield	95

The excess of drawback is therefore fully proved as follows:

Percentage of pure sugar contained in the raw sugar.	Equivalent yield of extractable pure sugar as calculated from the scale.	Drawback allowed on this yield at the present rate of 2.60 cents per 100 pounds.	Duty paid on the raw sugar.	Excess of drawback.	Excess per 100 pounds of pure sugar.
		Cents.	*Cents.*	*Cents.*	*Cents.*
76	60	1.560	1.44	.120	.20
79	65	1.690	1.56	.130	.20
82	70	1.820	1.68	.140	.20
85	75	1.950	1.80	.150	.20
88	80	2.080	1.92	.160	.20
91	85	2.297	2.04	.170	.20
94	90	2.370	2.16	.180	.20
97	95	2.470	2.28	.190	.20

But it may urged that because the refiner converts his raw sugar into various proportions of hard and soft sugar, sirup, and waste, therefore the above calculation does not apply in all cases. Let us see if this is so. The refiners say that they get out of 100 pounds of raw sugar 60 pounds of hard sugar, 24 pounds of soft sugar, 11½ pounds of sirup, and 4½ pounds loss of weight. According to the yield on which the scale of duties is based, as previously shown, this yield stands as follows:

	Per cent. of pure sugar.
60 pounds hard	60
24 pounds soft, (drawback 1.84=76.6 per cent. yield)	18.38
	78.38

The drawback and duty received by the refiner are:

	Per 100 pounds.
60 pounds hard (drawback 2.60 cents)	$1.56
24 pounds soft (duty at least 1.84 cents)	.44
11.5 pounds sirup	.00
4.5 pounds loss of weight	.00
Total duty returned	2.00
Duty paid on raw sugar (78.38 yield, or 87 polarization,)	1.88
Excess	.12

which is equal to an excess of drawback on 100 pounds of hard sugar of 20 cents, exactly the same result.

F. G. W.

No. 517.

Mr. Bayard to Mr. White.

No. 862.] DEPARTMENT OF STATE,
Washington, April 30, 1888.

SIR: A dispatch recently received from Mr. Merrill, United States minister resident at Honolulu, advises the Department that Her Britannic Majesty's ship *Caroline*, commanded by Sir William Wiseman, had returned to Honolulu, after three weeks' cruise, in the course of which her commander had taken possession, on behalf of the Government of Great Britain, of the three islands known as Fanning, Christmas, and Penrhyn, lying from 1,000 to 1,800 miles southerly from Oahu.

In view of this intelligence, it is proper to recall to Her Majesty's Government the correspondence exchanged with my predecessor, Secretary Evarts, by Sir Edward Thornton, in 1879, relative to the possessory right to Christmas Island, "situated in 1° 40′ 30″ north latitude and 157° 14′ 77″ [*sic*] west longitude," which is presumed to be the same Christmas Island of which the British occupation is now reported.

Copy of the correspondence referred to is herewith inclosed for your information.

It seems proper, under the circumstances, and in default of more precise information, to reserve all other questions which may grow out of the reported occupation of the island.

I am, etc., T. F. BAYARD.

[Inclosure 1 in No. 862.]

Sir Edward Thornton to Mr. Evarts.

WASHINGTON, *January* 29, 1879.

SIR: I have been instructed by the Marquis of Salisbury to make some inquiries of you with regard to Christmas Island, which is situated in 1° 40′ 30″ north latitude, and 157° 14′ 77″ west longitude.

This island was discovered by Captain Cook in 1777. In 1865, an application having been made by certain British subjects for leases of various islands in the Pacific, including that island, to enable them to export guano therefrom, the question of the sovereignty of Christmas Island was investigated, and it was decided that it might be considered as accruing to the Crown.

Licenses for that island and two others were accordingly issued to Dr. Crowther, of Tasmania, who occupied them, but as he found them unproductive, the license was canceled at his request in 1869.

Fresh licenses for the same island were granted on the 9th of June, 1871, to Mr. Alfred Houlder, for the term of nine years. But two of the islands were found to have no guano upon them, and with regard to Christmas Island, when a gentleman, Dr. Weston, went down to survey the deposits thereon, he found on his arrival (July 5, 1872) that the island had a few days previously been taken formal possession of by the United States ship *Narragansett*, a notice to that effect having been fixed to a board erected on the shore; and that it was then in the occupation of three men in the employ of Mr. C. A. Williams, of Honolulu.

Under these circumstances Mr. Houlder made application that his licenses might be canceled and Her Majesty's Government, although it considered that it had exercised sufficient possessorial rights to support its claim to the sovereignty of the island, complied with Mr. Houlder's request, and his lease was canceled. He now writes, however, that he learns that Mr. Williams has given up the occupation of the island, and he solicits a fresh license. Before, however, taking this new application into consideration, Her Majesty's Government would be glad to be informed, with a view to avoid any question as to the right of sovereignty over Christmas Island, whether the Government of the United States has finally abandoned and withdrawn its claim to the island in question. Lord Salisbury has consequently instructed me to invite you in a friendly way to communicate to me, for the information of Her Majesty's Government, the views of your Government upon this subject.

I have, etc.,

EDWARD THORNTON.

[Inclosure 2 in No. 862.]

Mr. Evarts to Sir Edward Thornton.

DEPARTMENT OF STATE,
Washington, April 1, 1879.

SIR: I have the honor to acknowledge the receipt of your note of the 29th of January last, in regard to the possessory right to Christmas Island, situated in the Pacific Ocean in 1° 40′ 30″ north latitude and 157° 14′ 77″ west longitude, and discovered by Captain Cook in 1777.

It is stated that upon application being made in 1865 by certain British subjects for leases of various islands in the Pacific, including this one, to enable them to export guano therefrom, it was decided after investigation that the sovereignty of the island might be considered as accruing to the Crown.

Accordingly a license was issued to Dr. Crowther, of Tasmania, for Christmas and two other islands, which he occupied, but finding them unprofitable his license was cancelled at his request in 1869. A new license was granted on the 9th of June, 1871, to Mr. Alfred Houlder, for a term of nine years.

Two of the islands were found to have no guano upon them, and when Dr. Weston went to survey the deposits on Christmas Island, he found on his arrival there, July 5, 1872, that the island had a few days previously been taken possession of by the United States ship *Narragansett*, a notice to this effect having been fixed to a board erected on the shore, and that it was then in the occupation of three men in the employ of Mr. C. A. Williams, of Honolulu. Under these circumstances Mr. Houlder applied to have his license canceled and Her Majesty's Government, notwithstanding its opinion that it had exercised sufficient possessorial right to support its claim of sovereignty over this island, complied with Mr. Houlder's request. This gentleman, having since learned that Mr. Williams had given up the occupation of the island, now solicits a new license. But before acting upon this application Her Majesty's Government, in order to avoid any question as to the right of sovereignty over Christmas Island, inquires whether the United States has finally abandoned and withdrawn its claim to the island in question.

In reply I have the honor to inform you that, upon an examination of the files of the Department of State, it is ascertained that the American claim to the guano deposits on Christmas Island vested primarily in Mr. A. G. Benson, of New York, under the following circumstances: Mr. Benson having obtained from Capt. John Stetson, of New Haven, Conn., who is stated to have discovered deposits of guano on the

island at some time prior to 1857, a deed of conveyance of all possessory right in the same, dated May 11, 1857, empowered Capt. J. L. Pendleton, master of the ship *John Marshall*, of New York, to take possession of the island, which was accordingly done on the 20th of June, 1858, by Captain Pendleton, in the name and on behalf of Alfred G. Benson, of New York, and his associates, in conformity with the act of Congress of August 16, 1856.

The United States Guano Company, the present owners of the guano deposits of Christmas Island, have acquired their title—

First. By the quit-claim deed of assignment, dated May 11, 1857, made prior to the taking possession by John Stetson and wife, of New Haven, Conn., to Alfred G. Benson, of New York, conveying all their right, title, and interest in and to the guano deposits discovered on Christmas Island.

Second. By the act of taking possession on the 20th of June, in the name and on behalf of Alfred G. Benson, this possession complies fully with the act of August 16, 1856, and of itself carries title; the deed of conveyance from Stetson and wife serving, however, to quiet any prior claim on their part arising founded on discovery.

Third. By deed dated May 13, 1857, from A. G. Benson, aforesaid, to G. W. Benson, of New York, granting all of his right, title, and interest therein, conveyed to him by deed from John Stetson and wife.

Fourth. By deed dated November 24, 1858, from George W. Benson, aforementioned, to the United States Guano Company, of New York, conveying all of his right, title, and interest in said discoveries, ceded to him by deed from A. G. Benson.

And it further appears that the United States Guano Company have given an approved bond in accordance with the requirements of the act of Congress referred to, the provisions of which law are now embraced in Title LXXII of the Revised Statutes of the United States.

There being no other papers touching the question of ownership to the guano deposits on said island than those mentioned above, and no notification that said company have abandoned the island on file in the Department, they are still considered to be entitled to the protection guarantied by the laws of the United States in their possessory right, so far as such occupation may be necessary to secure the company or its assigns the deposits of guano found thereon.

I have, etc.,

WM. M. EVARTS.

No. 518.

Mr. White to Mr. Bayard.

No. 742 (*bis*).] LEGATION OF THE UNITED STATES,
London, May 4, 1888. (Received May 15.)

SIR: I have the honor to inclose herewith for your information a copy of a question asked in the House of Commons on Thursday, the 3d instant, in regard to affairs of Samoa, and also a copy of the answer made by Sir James Fergusson, the under secretary of state for foreign affairs.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 742 (bis).—The Times, Friday, May 4, 1888.]

Samoa.

Mr. W. McArthur asked the under secretary of state for foreign affairs whether the convention of 1881 between Great Britain, Germany, and the United States of America, with regard to Samoa, had ceased to exist, and whether the Government intended to recognize Tamasese as King of Samoa.

Sir J. FERGUSSON. There was no such convention contracted in 1881. A convention was concluded in 1879 between Great Britain and Samoa, to which Germany and the United States subsequently became parties, providing for good order in the district of Apia and for the maintenance of neutrality in case of internal disturbances; and a further convention between the same powers in 1883 continuing the last. The German Government have announced their withdrawal from that convention, and Her Majesty's Government have assented to the district of Apia being replaced under the control of the Samoan Government subject to the rights of the treaty powers.

No 519.

Mr. White to Mr. Bayard.

No. 747.] LEGATION OF THE UNITED STATES,
London, May 5, 1888. (Received **May 15.**)

SIR: Referring to my dispatch No. 726 of April 21, I have the honor to inclose herewith copies of the *procès-verbaux* of the tenth, eleventh, and twelfth sittings of the International Sugar Conference.*

In the former (page 3, last paragraph, and page 4), a question was asked by one of the French delegates and answered by me, with regard to the exportation from the United States of sugar from Louisiana and from the Sandwich Islands. On this occasion also a committee was appointed at the suggestion of a French delegate, M. Catusse, to consider and report upon the technical details bearing upon Article II of the convention. The composition of this committee will be found at page 12 of the *procès-verbal* of April 13.

The eleventh sitting, Monday, April 16, was chiefly taken up with the discussion of those articles of the convention in respect to which there was little difference of opinion.

At the twelfth sitting of the conference, April 18, M. Pallain, of France, made a speech with regard to the United States, which will be found at pages 5 to 9 of the *procès-verbal*. He began by calling attention to our absence from the list of high contracting powers, and stated that it was indispensable, in the opinion of his Government, that we should be among them. M. Pallain quoted at length from a speech made by Mr. McCreary, of the Foreign Affairs Committee of the House of Representatives, in reference to the proposed conference of American powers for the purpose of promoting commercial relations between each other, and stated that, in view of the fact that the Argentine Republic is one of the principal markets for French sugar, and in view of the apparent probability of an American customs union, he thought the French Government perfectly right not only in desiring the inclusion of the United States in the convention, but in considering such inclusion absolutely indispensable to that of France.

On the same occasion the German delegate called attention to the United States, and after expressing the earnest wish of his Government that we should become a party to the convention, he said that, failing our adhesion thereto, if the conference were to have any practical results, a penal clause such as that proposed by the Spanish delegates would be necessary. This is also the opinion of the French, Austrian, Spanish, and Russian Governments.

At the thirteenth sitting of the conference, revised copies of the *procès-verbal* of which have not yet reached me, M. Pallain, of France, again spoke at length with respect to the United States, his remarks being this time based upon a speech made by Senator Wilson, of Iowa, on the 5th April, in the Senate, in which "a reasonable bounty for the production of sugar in the United States" is suggested.

The French delegate concluded by saying that, from Senator Wilson's speech, and from other documents which he had read, he inferred that the United States are drifting away from, rather than towards, a sugar union.

There have been further sittings of the conference on the 23d and 28th April, on the 1st and 3d instants, and to day; in reference to all of

* Not translated and not printed herewith.

which I shall have the honor shortly of writing to you. The corrected *procès-verbaux* of these sittings shall be forwarded as they reach me.

I have, etc.,

HENRY WHITE.

[Inclosure with No. 747.—Translated extract.]

International Sugar Conference. Protocol of tenth meeting, Friday, 13th April, 1888.

* * * * * * *

M. Catusse inquired whether a note had been received from the Government of the United States touching its system of imposts [on sugars]. It would be of interest to know how the Louisiana and Sandwich Islands sugars are treated upon being exported.

Mr. White stated that those sugars do not enjoy a drawback. Sugar which has paid no customs duty of importation is not admitted to the benefit of the drawback. He submitted, in this relation, an extract from the customs regulations* governing the application of the drawback, and asked that this document be annexed to the minutes of the meeting.

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No. 520.

Mr. White to Mr. Bayard.

No. 749.] LEGATION OF THE UNITED STATES,
London, May 11, 1888. (Received May 22.)

SIR: I have the honor to inclose herewith two extracts from the Times of the 8th instant and of to-day, containing reports of questions asked in the House of Commons with reference to Samoan affairs, and of the answers given thereto by Sir James Fergusson, under secretary of state for foreign affairs.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 749.—The London Times, Tuesday, May 8, 1888.]

Samoa.

Mr. W. MCARTHUR asked the under-secretary of state for foreign affairs whether the agreements of 1879 and 1883 between Great Britain, Germany, the United States, and Samoa were all signed by Malietoa as King of Samoa; whether the Government had ever had any reason to complain of the non-fulfillment by Malietoa of any part of those agreements; whether the attention of the Government had been called to a proclamation issued to the Samoans on the 25th of August, 1887, and signed by the British pro-consul, Mr. H. Wilson, in which occurred these words: "Now, therefore, we, the undersigned representatives of the United States of America and Great Britain, hereby give notice that we and our Governments do not and never have recognized Tamasese as King of Samoa, but continue as heretofore to recognize Malietoa;" whether the consent of the British and United States Governments was asked for by Germany prior to the seizure and deportation of Malietoa by a German ship-of-war; whether the Government proposed to acquiesce in the action of Germany; whether they knew that a large majority of the Samoan people were in favor of Malietoa as against Tamasese; whether Malietoa had repeatedly wished to take measures with regard to Tamasese, but had been restrained by the repeated assurances of the English

*Article 819, and Form No. 214, Customs Regulations of 1874. Not printed herewith.

consul that if peace were kept in the island the influence of England should always be used to preserve Malietoa's right to the throne; whether the British Government had ceased to recognize Malietoa as King of Samoa; if so, when and why; and whether the Government regarded the convention as being still in force as between Great Britain, the United States, and Samoa.

Sir J. FERGUSSON. The first, second, and fourth questions of the honorable gentleman must be answered in the negative. Her Majesty's Government have seen no cause to take part on either side in the differences between King Malietoa and the Emperor of Germany. At present, Tamasese is the King *de facto*, and will be recognized as such in practice by Her Majesty's Government according to the ordinary rules. No change has taken place in the treaty relations between England, Germany, and the United States in regard to Samoa.

Mr. W. MCARTHUR. Do I understand the right honorable gentleman to say Her Majesty's Government have no information as to paragraph 4?

Sir J. FERGUSSON. Her Majesty's Government have not been consulted on the matter by the Government of Germany.

Mr. W. MCARTHUR. Does Her Majesty's Government propose to disavow the action of their agent? [Hear, hear.]

Sir J. FERGUSSON. Owing to the delay in the telegraph, our agent took action on his own responsibility and without communication from us.

[Inclosure 2 in No. 749.—The London Times, Friday, May 11, 1888.]

Samoa.

Mr. W. MCARTHUR asked the under-secretary of state for foreign affairs whether he would give the date on which the English Government agreed to sanction the abandonment by Germany of the convention respecting Samoa.

Sir J. FERGUSSON. No formal agreement has been entered into for the abrogation of the convention of 1879 respecting the municipal board of Apia, but as the continuance of that board had become impracticable, orders were, on the 24th of February, sent to the acting British consul to consider the convention as suspended. The district has accordingly passed under the control of the *de facto* Samoan Government, as provided by article 10 of the convention in case of its termination.

In reply to further questions from Mr. W. McArthur, Sir J. Fergusson said: "In the reply which I gave on May 3, the date which I mentioned refers to the present year. I then stated accurately that the German Government had informed Her Majesty's Government that it was their intention to demand reparation from Malietoa, which, of course, might involve further proceedings. The telegram informing the British consul was delayed because no vessel was immediately available to forward it from New Zealand, and the consul, in the absence of instructions, acted on his own responsibility."

Mr. MCARTHUR. Are we to understand that the German Government gave such short notice that there was no time for inquiry? [Hear, hear.]

Sir J. FERGUSSON. We are now coming to a different and complicated matter, and I ought to have notice of the question. [Hear, hear.]

Mr. CONYBEARE. Will the right honorable gentleman lay a return upon the table showing the grounds upon which consuls can act without instructions from their superiors?

Sir J. FERGUSSON. There can be no possible reason why notice of a question of that kind should not be given. [Hear, hear.]

No. 521.

Mr. White to Mr. Bayard.

No. 752.] LEGATION OF THE UNITED STATES,
London, May 14, 1888. (Received May 26.)

SIR: I have the honor to acquaint you that on the 12th instant the delegates to the international sugar conference from Germany, Austria-Hungary, Belgium, Denmark, Spain, France, Great Britain, Italy, Holland, and Russia signed at the foreign office the "*protocole de clôture*,"

of which and of the "*projet de convention*," annexed thereto, I inclose three copies herewith.

I shall have the honor of addressing to you a few observations with respect to this document and to those *procès-verbaux* of the late session of the conference, which have not yet been forwarded, as soon as I shall have received the latter.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 752.—Translation.]

Final protocol.

The undersigned, delegates of Germany, Austria-Hungary, Belgium, Denmark, Spain, France, Great Britain, Italy, the Netherlands, and Russia, have re-assembled at London on the 5th day of April, 1888, for the purpose of preparing a draught of a convention having for its object the abolition of bounties on the exportation of sugar.

After the deliberations, of which an account is given in the reports of the sessions, they have adopted the draught of a convention, which is appended to this protocol, and which they pledge themselves to submit to the consideration of their respective Governments, with the reservations mentioned in the inclosed reports.

They pledge themselves, moreover, to request their respective Governments to communicate to the Government of Her Britannic Majesty their opinions concerning the draught of a convention before the 5th of July next.

Her Britannic Majesty's Government proposes to convoke, on the 16th of August, at the latest, a conference of plenipotentiaries to sign the convention.

Done at London, May the 12th, 1888.

[Inclosure 2 in No. 752.—Translation.]

Draught of a convention.

The high contracting parties, desiring to secure, by reciprocal engagements, the entire abolition of bounties, either open or disguised, on the exportation of sugar, have resolved to conclude a convention to that effect, and have appointed as their plenipotentiaries, to wit:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland; the Right Honorable Robert Arthur Talbot Gascoyne Cecil, Marquis of Salisbury, Earl of Salisbury, Viscount Cranborne, Baron Cecil, Peer of the United Kingdom, Knight of the Most Noble Order of the Garter, Member of Her Majesty's Most Honorable Privy Council, Her Majesty's Chief Secretary of State in the Department of Foreign Affairs, etc., and Baron Henry de Worms, member of the Parliament of the United Kingdom of Great Britain and Ireland, Colonial Under-Secretary of State, etc.;

His Majesty the Emperor of Germany, King of Prussia;

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary;

His Majesty the King of the Belgians; Baron Solvyns, his envoy extraordinary and minister plenipotentiary; Mr. Guillaume, director-general of his ministry of finance; and Mr. Du Jardin, inspector-general of his ministry of finance;

His Majesty the King of Denmark; Mr. de Barner, his chamberlain, inspector-general of custom-houses;

His Majesty the King of Spain, and in his name the Queen Regent of the Kingdom; Mr. del Mazo, his ambassador extraordinary and plenipotentiary; Mr. Batanero, deputy, and Mr. Dupuy de Lôme, his minister resident;

The President of the French Republic, Mr. Waddington, his ambassador extraordinary and plenipotentiary, and Mr. Sans Leroy, deputy;

His Majesty the King of Italy, the Chevalier Catalani, his chargé d'affaires;

His Majesty the King of the Netherlands, Grand Duke of Luxemburg;

His Majesty the Emperor of all the Russias, the Chevalier de Staal, his ambassador extraordinary and plenipotentiary, and Mr. Kamensky, his actual counsellor of state;

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

ARTICLE I.

The high contracting parties pledge themselves to adopt measures which shall constitute an absolute and full guaranty that no bounty, either open or disguised, shall be allowed on the manufacture or exportation of sugar,

ARTICLE II.

The high contracting parties pledge themselves:

To collect the tax on such quantities of sugar as may be intended for consumption, without allowing, when such sugar is exported, any drawback or return of duties or any rebate that can be considered as equivalent to a bounty of any kind whatever.

To this end, they agree to subject sugar factories and refineries, together with factories for the extraction of sugar from molasses, to the warehousing system, under the permanent surveillance both by night and by day of the revenue officers.

To this effect the sugar works shall be constructed in such a manner as to furnish every guaranty against the clandestine removal of the sugar, and the aforesaid officers shall be at liberty to enter all parts of the said works.

Registers shall be kept concerning one or more stages of the manufacture, and the sugar, when finished, shall be deposited in special warehouses offering every desirable guaranty of security.

By way of exception to the first paragraph of this article, the duties on sugar used in the manufacture of chocolate and other productions intended for exportation may be refunded or remitted, provided that no bounty result therefrom.

ARTICLE III.

The high contracting parties agree to subject sugar refineries to the same system as sugar factories.

Nevertheless, each country may keep a refining account on the score of surveillance, by means of saccharometry; or it may use any other means of surveillance that may seem to it to be best adapted to prevent the allowance of a bounty on exportation.

Proposition of the delegates of the Netherlands.

The high contracting parties agree to subject sugar refineries to the same system as sugar factories.

Nevertheless, they reserve the right of determining by saccharometric methods, the quantity of refined that is represented by the raw sugar admitted into refineries without payment of duties, on condition that it shall be exported after being refined, without prejudice to the collection of duties on such surplusage as may be discovered by the permanent surveillance on exportation, and as may be shown by the inventory of sugar and sirup in the refinery. This inventory shall be taken at least once a year.

ARTICLE IV.

As Belgium is not in the same circumstances as regards the enforcement of the system of taxation of quantities of sugar already produced, the system now established in that Kingdom may be maintained, with the following modifications:

The amount of the tax shall be reduced from 45 francs to 22 francs 50 centimes at the time when this convention shall take effect. The *prise en charge** of the subscribing factories shall be raised from 1,500 to 1,750 grams when this convention goes into operation, and to 1,800 grams two years afterwards.

ARTICLE V.

The high contracting parties and their transmarine provinces, colonies, or foreign possessions which do not collect any tax on sugar, or which do not allow on the exportation of raw or refined sugar, molasses, or glucose any drawback, return, or remission of duties or quantities, shall be exempted from complying with the provisions of Articles II and III, provided that they pledge themselves to maintain one of those systems while the convention shall remain in force, or, in case of a change to adopt the system established in Articles II and III.

Russia, which levies a tax at a special rate on the total amount of sugar manufactured, and which allows on the exportation of all kinds of sugar a return not exceeding that rate, shall, so long as she maintains her present system, be assimilated to the powers designated in the foregoing paragraph.

ARTICLE VI.

The high contracting parties agree to appoint an international sugar commission, whose duty it shall be to take care that the provisions of this convention be executed.

* Estimated saccharine yield.

This commission shall be composed of delegates of the different powers, and a permanent bureau shall be placed under its control.

The duties of the delegates shall be:

(*a*) To examine whether the laws, orders, and regulations relating to the taxing of sugar are in conformity with the principles laid down in the foregoing articles, and to inquire whether, in practice, no bounty, either open or disguised, is allowed upon the exportation of sugar, molasses, or glucose.

(*b*) To express their opinion concerning questions in dispute.

(*c*) To examine applications for admission into the union of states that have not taken part in this convention.

It shall be the duty of the permanent bureau to collect, translate, arrange, and publish information of all kinds relative to the laws and statistics concerning sugar, not only in the contracting countries, but also in all other countries.

With a view to securing the execution of the foregoing provisions, the high contracting parties shall communicate, diplomatically, to the Government of Her Britannic Majesty, which shall transmit them to the commission, such laws, orders, and regulations concerning the taxation of sugar as are or shall be in force in their respective countries, together with such statistical information as may relate to the subject of this convention.

Each of the high contracting parties may be represented in the commission by a delegate, or by a delegate and an assistant delegate (an adjunct).

The first meeting of the commission shall take place at London, in the month following the ratification of this convention.

It shall be the duty of the commission to prepare, at its first meeting, a draught of a set of regulations fixing the place and the time of its subsequent meetings, together with the seat of the permanent bureau.

The commission shall, at its first meeting, prepare its by-laws, and also a report concerning the laws or bills that shall have been submitted to it by Her Britannic Majesty's Government.

The commission shall have no power save to inspect and examine. It shall make, on all questions that shall be submitted to it, a report, which it shall address to Her Britannic Majesty's Government, which Government shall communicate it to the interested powers, and shall, if this be requested by one of the high contracting parties, cause a conference to be convoked, which shall adopt such decisions or measures as the circumstances may require.

The expense entailed by the organization and the work of the permanent bureau and the commission—excepting the salaries or compensation of the delegates, which shall be paid by their respective countries—shall be borne by all the contracting countries, and shall be apportioned among them in a manner to be hereafter determined by the commission.

ARTICLE VII.

After this convention shall have gone into operation all raw or refined sugar, molasses, or glucose from countries, transmarine provinces, colonies, or foreign possessions that shall maintain the system of open or disguised bounties on the manufacture or exportation of sugar shall be excluded from the territories of the high contracting parties.

Any contracting power, in order to exclude from its territory raw or refined sugar, molasses or glucose, on which open or disguised bounties have been allowed, may either prohibit such productions absolutely or may levy a duty upon them exceeding the amount of the bounty.

The high contracting parties pledge themselves to adopt the measures necessary to secure these results.

The fact of the existence in a country, transmarine province, colony, or foreign possession, of a system allowing open or disguised bounties on raw or refined sugar, molasses, or glucose, shall be decided by a vote of the signatory powers of this convention.

ARTICLE VIII.

States that have not taken part in this convention shall be allowed to adhere thereto at their request, on condition that their laws and regulations on the subject of sugar are in accord with the principles of this convention, and have been previously submitted to the approval of the high contracting parties in the manner prescribed in Article VI.

ARTICLE IX.

This convention shall go into operation on the 1st day of August, 1890.

It shall remain in force for ten years from that day, and in case none of the high contracting parties shall have given notice, ten months before the expiration of the

said period of ten years, of its intention to cause the effects thereof to cease, it shall remain in force for one year longer, and so on from year to year.

In case one of the signatory powers shall give notice of its desire for the cessation of the effects of the convention, such notice shall have no effect except as regards that power; but the other powers shall have the privilege, until the 31st day of October of the year in which such notice is given, to give notice of their intention to withdraw, in their turn, on and after the 1st day of August of the year following.

Nevertheless, each of the high contracting parties may, by giving notice twelve months in advance of its desire for the cessation of the effects of the convention, put an end thereto, so far as it is concerned, at the expiration of the second, fifth, and eighth years of the said period of ten years.

If more than one power shall desire to withdraw, a conference of the signatory powers shall meet at London within three months, for the purpose of deliberating with regard to the measures to be adopted.

ARTICLE X.

The stipulations of this convention shall be applicable to the transmarine provinces, colonies, and foreign possessions of the high contracting parties.

In case one of these transmarine provinces, colonies, and foreign possessions of the high contracting parties shall desire to withdraw separately from the convention, a notification to that effect shall be communicated to the contracting parties by the Government of its mother country, in the manner and with the consequences mentioned in Article IX.

ARTICLE XI.

The execution of the reciprocal engagements contained in this convention shall be subordinate, so far as may be necessary, to compliance with the formalities and rules established by the constitutional laws of each of the contracting countries.

This convention shall be ratified and its ratifications shall be exchanged at London on the 30th day of August, or sooner, if possible.

No. 522.

Mr. White to Mr. Bayard.

No. 754.] LEGATION OF THE UNITED STATES,
London, May 18, 1888. (Received May 29.)

SIR: Referring to my dispatch No. 747, of May 5, I have the honor to inclose herewith copies of the *procès verbaux* of the thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, and twenty-second sittings of the international sugar conference,* the present session of which was brought to a close by the signature, on the 12th of May, of the protocol transmitted in my dispatch No. 752, of the 14th instant.

These documents are so well drawn up and give such full and accurate reports of the proceeding of the conference that I deem it necessary only to call your attention to a few of the more important questions which came under discussion.

At pages 4, 5, and 6, of the *procès verbal* of the thirteenth sitting, will be found M. Pallain's remarks, referred to in my dispatch No. 747, with reference to the speech (*vide* also Congressional Record of April 6) of Senator Wilson, of Iowa. At the same sitting a discussion of some length, initiated by M. Jordan, of Germany, and continued by M. Dupuy de Lôme, of Spain, took place with regard to the penal clause question (pages 10, 11.)

The United States occupied a considerable portion of the attention of the conference at its fourteenth sitting. M. Pallain concluded an able

* Not printed herewith.

speech, in which he gave an interesting account of the growth of the French bounty system by stating that France had been compelled to adopt bounties in self-defense and against her will, but that she would not give her final assent to their abolition until that of the United States had been given also. He added that the latter might at any moment become a great sugar-producing country, and not only close its markets to the world, but invade those of other nations; consequently any international agreement for the abolition of sugar bounties in which the United States should not be included would, in his opinion, be productive at no distant day of very disagreeable surprises for Europe.

M. Dupuy de Lôme, formerly of the Spanish legation at Washington, replied that the French knew, before coming to the conference, that the United States would not be officially represented, and he stated the reasons which, in his opinion, rendered such official representation impossible (page 6), adding that, to his mind, the fact that the United States had sent to the conference an unofficial delegate was a marked proof of our country's good will and intentions in the matter.

The whole of the fifteenth sitting was taken up with the discussion of a clause (Article VI of the *Projet de Convention*) providing for the creation of an international commission, whose functions shall be to see that the provisions of the convention are carried out, and to report to the powers interested any infraction thereof.

At the sixteenth sitting the report of the committee appointed on the 13th of April was laid on the table, and its recommendations with regard to the wording of Article II were eventually adopted.

Brief allusion to the penal clause question was made at the close of this sitting, the Spanish delegate stating that, in his opinion, no convention would be possible without such a clause; to which "serious declaration" the senior French delegate called the particular attention of the conference.

The Belgian proposals for insuring the abolition of bounties in that country (Article IV of the new draught convention) came under discussion at the seventeenth sitting of the conference. M. Guillaume defended these in an able speech (pages 2, 3, 4, 5, and 6), upon which comments were subsequently made by various delegates; the opposition evinced at the previous session of the conference to the Belgian project being fully maintained, notwithstanding further modifications proposed as a compromise by Belgium, *i. e.*, an increase of the "*prise en charge*" from 1,700 to 1,750 grams (at once, and in two years to 1,800) and a reduction of the tax from 25 francs to 22 francs 50 centimes.

To the surprise of all the other delegates, the French refused to take part in this discussion or to commit themselves to any future course with regard to the Belgian proposals.

At the eighteenth sitting, however, M. Sans-Leroy stated that instructions had been received from France since the conference last met, and that his Government would insist upon the non-acceptance of the Belgian project.

The Spanish proposal, known as the penal-clause question, was also discussed at this sitting (pages 10 to 14.)

It had been supposed that England would not agree to a penal clause, but this turned out not to be the case, as Baron de Worms made a statement in behalf of his Government (page 14) assenting unreservedly to its insertion. M. Sans-Leroy's remarks in connection with this discussion (page 13) should be noted, to the effect that France can not admit the necessity for a penal clause affecting *non-contracting* powers, as she had said from the beginning that she would only assent to the con-

vention upon the condition that *all* the sugar-producing powers of the world should be parties thereto.

The nineteenth sitting was chiefly taken up with a discussion of the "surtaxes" question, which was raised by the Dutch delegates at the previous session of the conference, and is referred to in my report of its deliberations. The question was again discussed as a matter of courtesy to the Dutch delegates; but it was well known that a large majority of the powers represented at the conference considered this matter to be beyond its scope, and would not allow any clause bearing on the subject to be inserted in the convention. In rejecting the clause proposed by the Dutch delegates, the conference re-asserted the principle laid down at its last session, viz, that there should be no interference with the right of all the powers signing the convention to establish such customs duties as they might think expedient. The discussion was chiefly remarkable for an unsuccessful attempt to obtain a promise from the British Government not to establish any duties on sugar during the period of the convention's duration.

Upon the rejection of the clause proposed by the Dutch delegates they announced that they felt compelled to reserve to their Government full liberty of action with respect to the entire convention.

The period during which the convention should remain in vigor was also discussed at this sitting, at which Article X, fixing the period in question, was adopted.

At the twenty-first sitting a discussion took place as to the date at which the delegates should assemble here for the final signature of the convention; and M. Jordan, of Germany, having in connection with this subject again alluded to the absence of the United States from the list of contracting powers, and expressed the opinion that by postponing the date of signature the adhesion of the United States might perhaps be obtained, I deemed it proper (page 2) to inform the conference that I had nothing to add to my previous statements with respect to the attitude assumed by my Government. I took occasion also to read a translation of our present drawback law, with which the delegates were for the most part unacquainted.

This sitting was marked by Baron H. de Worms' statement, in behalf of the British Government, to the effect that the latter can not postpone doing all that lies within its power to abolish bounties longer than August 16 next, and in the event of the convention's failure that the responsibility for this would rest, not with Her Majesty's Government, but elsewhere.

The Dutch delegate thereupon stated that it must be distinctly understood that the signature by himself and his colleague of the protocol would in no way commit his Government to the convention or fetter its liberty of action with reference thereto.

I was not present at the signature of the protocol, which took place at the twenty-second and last sitting of the conference.

You will observe from the *procès verbal* that, in deference to the desire of the British Government, it was decided not to make public for the present the proceedings of the second session of the conference.* I inclose an extract from the Times newspaper of to-day, containing an interpellation on this subject which took place yesterday in the French Chamber of Deputies.

In the *procès verbal* of this sitting will also be found the closing speech of Baron Henry de Worms, who draws a distinction between a policy

* They have since been published in London Gazette, September 6, 1888.

of protection which has the effect of closing the markets of a country against all foreign competition and "protection in the real sense of the word," which merely serves to protect national industries. To the latter he intimated that all free-trade countries might soon find themselves compelled by the force of public opinion to revert.

The most important clause of the convention, so far as the United States are concerned, is Article VII, the effect of which will be to prohibit the importation of our sugar into this country, should the present draught convention be ratified, and should the small indirect bounty which is said to exist in the United States not be made to disappear prior to the date at which the convention comes into force.

It is as yet uncertain whether the convention will be ratified, and whether, even should such ratification take place, the parliaments of the different signatory powers will pass the legislation necessary to carry its provisions into effect.

I have reason to believe that when the penal clause (Article VII) comes before the Parliament of this country it will meet with strong opposition. It is already announced in the Daily News (the leading Gladstonian Liberal paper) that immediately after Whitsuntide a meeting of Liberal members will be held for the purpose of discussing the question, with a view to the inauguration of an extensive agitation in the constituencies against the prohibition of the importation of bounty-fed sugar as being injurious to the British consumer; and the Times, in concluding a leading article on the sugar-bounties conference, says:

> We must acknowledge that, though the prohibition of bounty-fed imports of sugar is not at all as objectionable as the expedient of a countervailing duty, we look upon it with great misgiving, fearing that it will be used to justify much less defensible proposals.

On the other hand, strong pressure was brought to bear upon the Government in favor of the prohibition of bounty-fed sugar, resolutions to that effect being passed by the London Trades Council, by meetings of the workingmen of Liverpool and Bristol, by a meeting of workmen of the London sugar refineries, by the Birmingham Trades Council, and by a number of other similar associations. I inclose herewith, for your information, a report of the proceedings at the Liverpool workingmen's meeting.*

I am clearly of the opinion that unless the British Government had consented to the adoption of Article VII, or an equally stringent penal clause, the conference would have been brought to a speedy termination, for the obvious reason that most of the powers represented would have declined to sign a convention for the abolition of bounties unless effectually guarantied against the importation of bounty-fed sugar from without the union.

You will observe from the inclosed *procès-verbaux* that a great many reservations have been made by the different delegates, and, consequently, it is doubtful whether the convention will be ratified as at present drafted. Particularly is this the case with regard to Article IV (the Belgian clause), which will not improbably be dropped before the final signature of the convention.

I have no doubt whatever that a decided majority of the governments represented at the conference are sincerely desirous that the bounty system should disappear, but each is naturally anxious, before committing itself to this course, to leave no loop-hole by means of which another power may maintain a bounty. It remains to be seen whether this

* Not printed herewith.

can be accomplished. The difficulties to be overcome are still considerable, but I am disposed to think that no power will care to assume the responsibility of the failure of the convention, and that to this fact its ratification, if accomplished, will perhaps be due.

I am informed that translations of the *procès-verbaux* of the late session of the conference are now being made, copies of which will be forwarded as soon as received.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 754.—The London Times, Saturday, May 19, 1888.]

The sugar conference.

PARIS, *May* 18.

In the chamber to-day M. Delisse, on behalf of the beet-root sugar refiners, asked the minister for foreign affairs to distribute among the deputies, as his predecessor had done, the reports of the deliberations at the sugar conference in London.

M. Goblet, in reply, said that he could assure M. Delisse that the interests of France were very manfully and usefully defended by her delegates at the second session of the sugar conference in London. A draught convention had been signed on May 12, but it was accompanied by very important reservations as to the most important articles. After the first session in November the protocols had been published at the request of the English Government, who had referred to parliamentary rules; but, contrary to what had occurred at the first session, at the last sitting of the second session the English Government had asked, through the president of the conference, that the minutes of that session might not be published, and to obtain this concession an appeal was made to the courtesy of the other governments interested. On the one hand parliamentary rules could be appealed to, but on the other it was the custom, when a convention was in the course of negotiation, not to publish the proceedings.

M. Goblet added that he did not place the question on this ground. When an appeal was made to their courtesy, it appeared to him difficult, unless there were need to the contrary, not to reply favorably. All the more was this the case, because at this moment they were conducting with England delicate negotiations, which it was to their interest to continue until a favorable solution was reached. No engagement had been entered into in London and he himself had entered into none, but, unless indiscretions had been committed, which made it necessary, he had no intention of publishing what had been mentioned.

M. Delisse replied that on this occasion the degree of courtesy due to foreign nations had been exceeded. He had, perhaps, a right to say so, considering the measures which England had recently taken with regard to French wines, and the difficulties which she had placed in the way of the importation of French cattle. He had no desire to place the foreign minister in a difficult position. He wanted only to ask him to keep in mind, with reference to efforts that would be made between this time and July 5, the almost unanimous demonstrations in all the provinces concerned. These demonstrations showed to what an extent their commerce, industry, and agriculture were interested in not following up this London conference, which by the abolition of bounties would place France in a highly undesirable situation.

The president said that the incident was closed.

No. 523.

Mr. Bayard to Mr. White.

No. 877.] DEPARTMENT OF STATE,
Washington, May 23, 1888.

SIR: With reference to previous correspondence concerning Samoan affairs, I inclose herewith for your information a copy of a recent dispatch from our consul at Apia relative to the aggressive proceedings of the Germans in the Samoan Islands in the matter of lands owned by Americans.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 877.]

Mr. Sewall to Mr. Rives.

No. 113.] CONSULATE-GENERAL, UNITED STATES OF AMERICA,
Apia, Samoa, April 27, 1888.

SIR: Referring to my dispatches numbered 25, dated October 8, 1887, and numbered 93, dated February 24, 1888, I have the honor to state that German activity in extending land claims continues.

The latest act of the German firm is to claim a large strip of valuable land, the sale of which to Mr. W. Blacklock, an American citizen, is duly recorded in the register of this office.

Mr. Blacklock is the manager for Mr. H. T. Moors, and it is his opinion that this claim has been made because of the feeling aroused by Mr. Moors' recent visit to Washington.

As soon as the mission of Mr. Moors became known this claim was put forward.

Mr. Blacklock had some months previously inclosed the land and erected a house upon it, and no opposition was made to this.

The confidence on the part of the Germans in securing a settlement of their land claims favorable to them alarms our citizens, and the probable action of the United States in the protection of American land titles here is the subject of anxious inquiries at this office.

The German gun-boat *Eber* has arrived here.

I have, etc.,

HAROLD MARSH SEWALL.

No. 524.

Mr. White to Mr. Bayard.

No. 757.] LEGATION OF THE UNITED STATES,
London, May 23, 1888. (Received June 2.)

SIR: With reference to previous correspondence on the sugar bounties question, I have the honor to inclose herewith the copy of a letter which I have received from Mr. Neville Lubbock, chairman of the West India committee.

Mr. Lubback came to see me a few days ago on the subject, and I told him if he could put his views in writing that I should be happy to transmit them to you.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 757.]

Mr. Lubbock to Mr. White.

THE WEST INDIA COMMITTEE,
51 *Lime street, E. C., May 18, 1888.*

SIR: Referring to the conversation I had with you some days ago, I have now the pleasure to report to you, as promised, upon the present position of the American sugar industries in reference to the bounties granted upon sugar by various European Governments.

The sugar industries of the United States may be divided into three categories. There is, first of all, the interest of the producers, in the main carried on in Louisiana, where the production last year was about 140,000 tons of cane sugar. Endeavors are being made in other parts of the United States to produce sugar from sorghum and from beet, but it is still largely a matter of doubt whether, unless large subsidies are accorded to this industry by the United States, they are ever likely to become of any considerable importance.

The second category includes the refining industry of the United States. This is a gigantic industry, and, in view of the annually increasing consumption of the United States, is one which is likely to increase.

The third category is a somewhat peculiar one. It consists of the sugar industry of the Sandwich Islands, which, for some reason or other, the United States seems to

think it worth their while to subsidize to an enormous extent. The production of the Sandwich Islands, which under the influence of these subsidies is rapidly increasing, was last year about 100,000 tons, and must have cost the United States tax-payers not less than $5,000,000. What advantage the United States gain by this enormous subsidy is not obvious to outsiders. The amount of it, however, is so great that the question of bounties or no bounties in Europe is one which is quite immaterial, so far as this industry is concerned Should this subsidy, for any reason, be terminated, it is obvious that the interests of the Sandwich Islands would be identical with those of the producers in Louisiana. It will be evident that any influence which forces the price of a commodity below its natural price—that is to say, below the price at which it can be produced and sold at, with a reasonable amount of profit, without artificial assistance from Governments—must be detrimental to all those engaged in the industry of production who are not in receipt of such a subsidy as will enable them to compete, on equal terms, with those who are more fortunate.

In the case of Louisiana, the duties levied in the United States at present operate as a powerful protection—a protection which amounts to £10 per ton, sugar being worth £15 to £18 per ton ex duty—so that the injury caused to the industry by the European bounties is hardly appreciable. In the event, however, of the sugar duties in the United States being largely reduced or abolished altogether, the depreciation of price caused by the European bounties would inevitably seriously cripple the sugar industry of Louisiana. It seems, therefore, to be to the advantage of this industry that the bounty system of the European Continent should be brought to an end.

Coming now to the question as it affects the refiners of the United States. In one respect they are in a similar position to the producers of Louisiana, inasmuch as the existing duties prevent any competition from outside upon United States markets. The only competition, apparently, which they have to fear is the competition which is obviously arising out of the large subsidies granted to the Sandwich Islands on the production of sugar. As this production increases in size, it will evidently enable the refiners of the Western States to undersell the refiners of the East. In the event, however, of the duties being abolished in the United States, if the European bounties should be continued, as they at present exist, there can be no doubt that, at once, large quantities of bounty-fed refined sugar would be exported from European countries to the United States. Of course, it would be open to the United States Government to accord bounties to their own refiners equivalent to or even in excess of those granted by European countries, but, under the present law of the United States, such bounties are illegal, and it would, therefore, appear that the interests of the refining industry of the United States, no less than those of the producing industry, would be promoted by a general convention putting an end to all bounties whatsoever.

I am, etc.,

N. LUBBOCK.

No. 525.

Mr. White to Mr. Bayard.

No. 764.] LEGATION OF THE UNITED STATES,
London, May 29, 1888. (Received June 11.)

SIR: Referring to your instruction numbered 862, of the 30th ultimo, I have the honor to inclose herewith copies of the note which I addressed to the Marquis of Salisbury with respect to the correspondence between Mr. Evarts and Sir Edward Thornton relative to the possessory right to Christmas Island, and of his lordship's reply to the same.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 764.]

Mr. White to Lord Salisbury.

LEGATION OF THE UNITED STATES,
London, May 4, 1888.

MY LORD: I have the honor to acquaint you that the Secretary of State has been informed by the United States minister at Honolulu that Sir William Wiseman, com-

manding Her Majesty's ship *Caroline*, had, during a recent cruise of that vessel, taken possession, in behalf of Great Britain, of the three islands known as Fanning, Christmas, and Penrhyn, lying from 1,000 to 1,800 miles from Oahu; and I beg to add that, in view of this intelligence, my Government deems it proper to recall to your lordship's recollection the note addressed on the 29th of January, 1879, by Sir Edward Thornton, Her Majesty's minister at Washington, with regard to the possessory rights to Christmas Island, to Mr. Evarts, at that time Secretary of State of the United States, and the latter's reply to the same dated April 1, 1879.

The Christmas Island referred to in this correspondence is "situated in 1° 40′ 30″ north latitude, and 157° 14′ 77″ (*sic*) west longitude," and is presumed to be the island bearing that name of which the British occupation is now reported.

I have, etc.,

HENRY WHITE.

[Inclosure 2 in No. 764.]

Lord Salisbury to Mr. White.

FOREIGN OFFICE, *May* 24, 1888.

SIR: I have the honor to acknowledge the receipt of your communication of the 14th instant, in regard to the recent annexation by Great Britain of Christmas and other islands in the Pacific, and in reply thereto I beg to furnish you with the following statement of facts in connection therewith.

I would observe that it appears from the correspondence to which you refer as having passed in the year 1879 between Sir E. Thornton and Mr. Evarts, upon the subject of Christmas Island, in connection with the right of extracting guano therefrom, that the United States Government were then asked, in a friendly manner, whether they had finally abandoned and withdrawn their claim to the island in question. The reply made was that, as the American company to whom the grant had originally been made in 1858 to take possession of this island, "in conformity with the act of Congress of the 18th of August, 1856" (that is to say, for the sole purpose of extracting guano), "had not notified their abandonment of the island, they were still considered to be entitled to the protection guarantied by the laws of the United States in their possessory rights, so far as such occupation might be necessary to secure to the company, or their assigns, the deposits of guano found thereon."

But although the American company would appear to have omitted to notify officially to the United States Government the fact that they had abandoned Christmas Island, it is evident that it had been abandoned before the 17th of April, 1882, now six years ago, for when the master of the ship *Regno*, belonging to Messrs. Henderson & Macfarlane, of Auckland, landed on the island on that day they found it unoccupied, and accordingly proceeded to hoist the British flag and to take possession of it in the name of the firm.

Again, when, in October, 1884, the captain of Her Majesty's ship *Constance* visited Christmas Island, he reported that it was then owned by Messrs. Henderson & Macfarlane, of Auckland, and he described it as "English." So again in November, 1885, when the captain of Her Majesty's ship *Satellite* then visited it, he reported that he had, on his arrival, communicated with the only white man there, Mr. Freeman, agent of Messrs. Henderson & Macfarlane; and in conclusion I am to say that Capt. Sir W. Wiseman reported, on the 3d of April last, that he had not taken formal possession of the island on the 17th of the preceding month until he had communicated with the agent of Messrs. Henderson & Macfarlane and had satisfied himself that there was no evidence on the spot of the island being still claimed by the United States or that it was occupied by United States citizens.

I have, etc.,

SALISBURY.

No. 526.

Mr. White to Mr. Bayard.

No. 766.] LEGATION OF THE UNITED STATES,
London, June 6, 1888. (Received June 16.)

SIR: Referring to your instructions numbered 875 of May 17, and to previous correspondence, I have the honor to inclose herewith, for your information, certain extracts from the Times of June 1, containing the

report of speeches made in the House of Commons on the 31st ultimo, by Mr. McArthur, Sir James Fergusson, and Mr. Bryce, with respect to Germany's action in Samoa.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 766.—The London Times, Friday, June 1, 1888.]

PARLIAMENTARY INTELLIGENCE.

HOUSE OF COMMONS, *Thursday, May* 31.

The speaker took the chair at 3 o'clock.

* * * * * * *

Samoa.

Mr. W. McArthur said that, if we were to maintain a close and intimate connection for the purposes of defense between the colonies and England, it must be made clear by English members that the policy of England was to be a peace policy. The colonists would willingly respond to any call for aid if England were attacked, but they would be quick to see the folly of allowing themselves to be mixed up with quarrels with which they had no concern. They did not care a button about any dynasty or country in Europe except so far as they were themselves affected; and to insure their co-operation our ministers must not act as if they were merely the ministers of their particular part of the Empire. If we did not pay adequate regard to the interests of the whole Empire we should run a risk of the ultimate separation of many of the English-speaking communities of the British Empire. We had lately shamed seriously the loyalty of some colonists by the attitude we had taken on questions affecting their interests, and the results of our indifference and neglect were seen in our present position with regard to Samoa. These islands were in the direct track of mail communication between western North America and New Zealand, and they were the center of a large trade in the Pacific.

English interests in the islands were not to be measured by trade only. To begin with, we discovered the islands, and our men-of-war made the charts which rendered the trade safe. The London Missionary Society had been there fifty years, and had established there a training college, from which missionaries were sent to all parts of the Pacific. Seven or eight years ago domestic affairs were in a state of confusion, and Sir Arthur Gordon established the late King Malietoa on the throne. As Her Majesty's commissioner in the Western Pacific, Sir A. Gordon issued a proclamation in which he said that he had resolved to resume official relations with the party which had been for three years in undisputed possession of the seat of government and supported by a majority of the people. This was followed by a treaty with Malietoa dated August 18, 1879, and by a convention in September, 1879, between Great Britain, Germany, the United States, and Samoa. In 1884 King Malietoa made a treaty with the German Government under protest, that power having for ten years previously made persistent attempts to obtain dominion over the natives of Samoa, and subsequently he sent a petition to the German Emperor, setting forth that the means by which the treaty was accepted were unjust, and protesting against the action of the German agent in Samoa. Following that protest of the Samoan king there was sent through the then governor of New Zealand a petition to Her Majesty the Queen, signed by nearly all the Samoan chiefs, praying for annexation to Great Britain, on the ground, among others, that they were afraid of being forcibly annexed by the Germans. The treaty was not pressed by the German Government, probably in consequence of the remonstrances of the American and British Governments. In 1885, and again in 1886, further attempts were made by Germany to seize the sovereignty of these islands, and each time the attempt was successfully resisted by the British and American representatives. In 1887, however, there arrived a German squadron of four or five ships, and the German consul four days later wrote to King Malietoa, complaining that German settlers had been attacked by the natives on the 22d of March of that year, and that from time to time during the previous four years the German plantations had been damaged to the amount of some thousands of dollars a year, and declaring that it was necessary that the Samoan Government should be more severe in the judgments given in the police courts. A heavy demand for compensation was made for the damage to the plantations, without a single item of particulars being given to the Samoan king, while the punishment of offenders had absolutely nothing to do with the Samoan Government, seeing that the cases were dealt with by the

consular court. The monstrous demand was made that the sum claimed for the compensation should be paid the next day—a demand which in such a country it was practically impossible to meet. The King wrote, promising an answer in three days, and the reply given by the German commander was that on the next day he landed seven hundred troops from his squadron and issued a proclamation in the name of the Government of Germany, declaring King Tamasese to be King of Samoa. He wanted to know what earthly right the Germans had to declare anybody King of Samoa. It was possible that by this time—August, 1887—we had given mandatory powers to the Germans as regards Samoan affairs, but surely such mandatory powers, if any, did not reach to the extent of allowing Germany to nominate anybody she pleased as King of Samoa. [Hear, hear.]

Sir J. Fergusson pointed out to the honorable member that he did not say we had given the German Government a mandatory power. It was proposed that one of the powers should exercise influence on behalf of the rest, but the proposal was not carried out.

Mr. W. McArthur submitted that that made the case so much the worse, and surely it was a monstrous thing for the English Government to allow such an outrage to take place without a word of remonstrance. And if Germany had no mandatory power, he wished to know why our consul was not supported in the proclamation he then issued to the Samoans. Why was it said to him a month ago in this House that our consul made that proclamation simply because he was not informed of the result of the negotiations between Great Britain and Germany?

Sir J. Fergusson was understood to say that as the honorable member referred to a previous answer of his it would be more convenient that he should remind him of what that answer was. He had said that instructions had been sent to the consul to preserve neutrality in the quarrel between the German Government and Malietoa, but the telegraphic message requiring to be forwarded by vessel from New Zealand did not reach him in time, and he did not receive his instructions till after.

Mr. W. McArthur again thought the explanation made the case worse. If Germany had made up her mind to make an attack on Samoa, did the right honorable baronet mean to say that she only gave the English Government so short notice that they had no time to notify our consul on the subject, and give him his instructions in time? Germany, in this matter, had acted in disregard of our rights and with great disrespect to this country. King Malietoa had placed himself under the protection of the British and American consuls, who promised assistance against the rebel Tamasese. But now the unfortunate King had been deposed by the action of Germany. He had surrendered himself to the Germans, who had actually deported him to the Cameroons, 8,000 miles away, and so far were the English Government from carrying out the undertaking given by our consul that six weeks ago they did not actually know whither the German Government had carried the unfortunate King. But he believed that in fact the whole action of the German Government was the result of agreement between them and our own Government, made at a much earlier date than 1887. In 1886 and the beginning of last year the relations of this country and Germany had become somewhat strained on account of our policy in Egypt, and he supposed that we had made some concession to Germany on this Samoan question to conciliate that power. This was not the first time that the interests of our colonies had been sacrificed to our foreign policy at home. The references in the minutes of the conference of last year were obscure and meager, and he did not hear that the delegates were accurately apprised of the facts of German intervention in Samoa. There was a strong feeling on the subject in our Australian colonies, and also in New Zealand. There was ample time to communicate with our consul at Samoa as to the action which he should take and the action which was being taken by the Government. The Germans failed also to communicate their plans to the American Government, and Mr. Secretary Bayard had, in dignified language, protested against the course taken by the German Government. He could tell the committee the secret of Germany's action in the matter. Certain German traders had largely engaged in operations which had been rightly forbidden in the island, viz, the sale of guns and liquor to the natives. In return they obtained large grants of land from the natives. These grants were not valid without the consent of the King, and, the King rightly refusing his consent, the German Government espoused the cause of the rebel Tamasese, whom they appointed King in place of Malietoa, and to whom they assigned a German prime minister, who, of course, dictated the King's policy. It was monstrous that the interests of our Australian colonies, who had hitherto been so loyal to the British Crown, should be thus sacrificed to considerations and policy at home. He did not propose to move a reduction of the vote, but desired to enter his earnest protest against the most scandalous violation of an agreement made by a representative of this country with a native monarch against whom we had no cause of complaint. [Hear, hear.]

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Sir J, Fergusson * * *. He apprehended it was the sense of the world-wide interests which this country possessed that ought to make Her Majesty's Government

very careful not to make rash declarations and that ought to make them not indifferent to the peace of the world. He would like to know how long we should retain our colonial empire if we had not friends in the world. We went to an enormous expense in making ourselves a military power. We were a member of the comity of nations, and respected other nations too much to make rash declarations about their interests. We were a great power, and we had the sympathies of other nations in maintaining the empire we had inherited. The honorable member for the St. Austell division of Cornwall had referred to the Samoan question, and had said that the colonies ought to be largely consulted in regard to our policy, because they had very large interests involved. The honorable member asked whether the Australian colonies had been consulted. He thought he might say that, generally speaking, the interests of our world-wide empire ought to be our first consideration, but though they should be more prominent in the mind of the Government of this country than the interests of any other country, it would certainly not do to allow any of the colonies to dictate to the Government of this country what their foreign policy should be. [Hear, hear.] He could well believe that there were British subjects in Samoa of the highest standing and respectability who had suffered, and as far as Her Majesty's Government could control events their interests should not be neglected. By the treaty rights of this country it was intended that the rights of British subjects should be fully protected. The honorable member had referred to a guaranty which he said had been given to Malietoa. Her Majesty's Government never guarantied any rights to Malietoa. They recognized Malietoa, and he bound himself to govern in conformity with the principles of good government, but no agreement was entered into with him by Her Majesty's Government to protect him against any other government. He was sure the House would recognize that it was not proper for Her Majesty's Government to comment in the house on the conduct of another government. The German Government had a quarrel with Malietoa. They considered the German power had been insulted on a certain occasion, he believed the Emperor's birthday, by subjects of Malietoa, and they demanded a complete apology and redress in the form of compensation for outrages committed on German subjects. There was nothing in any treaty made by Her Majesty's Government with Malietoa which made it incumbent on them to protect him against Germany.

Mr. McArthur said that what he complained of was that the Government entered into a convention not only with Malietoa but with the United States and Germany also.

Sir J. Fergusson said that those conventions were for the good government of Samoa and the safety of Europeans in that country. Then the honorable member complained that there was some sort of derogation from the dignity of Her Majesty's Government in their not receiving an intimation of the intention of the German Government to require reparation from Malietoa in time to communicate with their consuls, but he thought it would be manifest to the House that if acts of war were justifiable it was impossible for a government who contemplated them to wait until they had warned all their friends that they found it necessary to undertake them before they commenced operations. He did not know that there was anything that he could add on this subject. All he could say was that Her Majesty's Government would never shrink from any duty that was imposed upon them, and he trusted that they would never be slow to fulfill their engagements in any part of the world where they really existed in a manner that befitted the Government of a great power. [Hear, hear.]

Mr. Bryce thought the committee would receive with satisfaction the assurance of the right honorable gentleman that the engagements and liabilities of Her Majesty's Government among European powers were strictly limited to engagements already known to Parliament.

Sir J. Fergusson. The words I used to-night were precisely the same that I used on two previous occasions. [Hear, hear.]

Mr. Bryce said that, although the right honorable gentleman used some similar words on a former occasion, he had qualified those words by the context, and he thought they had obtained a somewhat stronger declaration that night than they had yet had from the right honorable gentleman, Taking the case as it was presented by his honorable friend, and taking the answer of the right honorable gentleman opposite, he certainly did think that the Government had played a sorry part in Samoa. [Hear, hear.] It seemed to him that Malietoa had been harshly treated and that Her Majesty's Government had not played a very dignified part in the matter. No doubt there was a very good reason why the Government should not remonstrate with Germany, even if they thought the action of Germany somewhat harsh. It would be easy for Germany to retort that Her Majesty's Government had not given proper treatment to King Ja Ja. [Hear, hear.] He would not go into earlier matters, nor would he consider how far Ja Ja had kept the terms of the treaty, although a good case might be made out on that point, because the one person in England who might be taken as knowing the facts of the case was of opinion that the King had been hardly

dealt with, but he submitted that, unless some better defense could be made of the treatment of King Ja Ja than that which they had heard from the under secretary for foreign affairs, the committee must conclude that the fairness and consideration in dealing with native races, which ought to characterize this country, had on this occasion not been observed, and that the great power which the Government exercised had been violated and disgraced. [Hear, hear.] He hoped that the opinion of the committee on this subject would be strongly expressed, and expressed in such a way that the Government would be induced to reconsider the case of King Ja Ja and give him justice. [Hear, hear.]

Dr. Clark observed that it was unfair, when the judge appointed by the Government to consider this case had decided that King Ja Ja was not guilty, that the under secretary for foreign affairs should come down and repeat the charge. [Hear, hear.] The fact was that we had sacrificed Australian for European interests. [Hear, hear.]

Sir R. Fowler, while believing that no very favorable opinion had been entertained by previous governments of King Ja Ja, thought that that petty potentate had been very harshly treated by Vice-Consul Johnson. [Hear, hear.] After all, King Ja Ja had been a faithful ally of the British Government, and he trusted that when his case came to be further considered he would be leniently dealt with. [Hear, hear.] He did not think, however, that a case had been made out that would justify the committee in refusing to sanction the payment of Vice-Consul Johnson's salary. [Hear, hear.]

Mr. Heaton thought that the action of England in the scramble that was taking place for the islands of the Pacific would not appear in a favorable light in history. Every step which we had taken with regard to those islands had been taken without our having consulted the Australian Government, and against the wishes of our colonies. Unless we determine to alter our course of action we should very soon have to part company with our Australian colonies.

Mr. Anderson, in order to afford those members of the committee who objected to the course which had been adopted with regard to King Ja Ja an opportunity of expressing their views on the subject, moved the reduction of the vote by the sum of £1,000.

The committee divided, and the numbers were: For the reduction of the vote, 62; against, 111; majority, 49.

No. 527.

Mr. Bayard to Mr. Phelps.

No. 895.] DEPARTMENT OF STATE,
Washington, June 18, 1888.

SIR: Mr. White's several dispatches reporting the progress and transmitting protocols of the proceedings of the second international conference on the sugar bounties question recently held at London, have been received and duly considered.

The question to which they relate being primarily one affecting the revenue, and therefore within the cognizance of the Secretary of the Treasury, it became necessary to communicate those dispatches and publications to that officer, calling his attention to the temporary reserve under which the protocols had been communicated, and asking his views concerning the requested adhesion of the Government of the United States to the project of a convention submitted, in season for conveying the result to Her Britannic Majesty's Government, as desired, before the 5th of July.

A copy of Acting Secretary Thompson's reply* is herewith inclosed, from which it will be seen that the conclusions are reached that the objects of the conference are foreign to the interests of this Government; that, in fact, no bounties are paid, either upon the exportation of imported sugar or upon the production and manufacture of sugar in the United States; that the rate of drawback which is now allowed by

*Not printed herewith.

law upon the exportation of refined sugar, manufactured from imported raw sugars, is not believed to be excessive and does not constitute an indirect bounty as has been claimed; that frequent investigations have shown that the present rates of the said drawback are substantially correct and represent the duties collected on the importation of the raw material, less the legal retention of 1 per centum, and that the question as to whether any bounty or subsidy should be allowed in connection with the production, manufacture, or exportation of sugars, is one which can not be determined by the executive branch of the Government, the legislative branch having sole and exclusive jurisdiction in such matters.

These views of my colleague entirely confirm the declarations made in my telegraphic instructions to you of March 27 and April 3 last, and justify the attitude of reserve which the delegate of the United States was instructed to announce as the condition of his friendly attendance at the sittings of the second conference. They are to be taken as the matured views of the Government of the United States in the premises and as precluding the participation of the United States in the projected international agreement as a signatory of the proposed convention, or of any convention following the same lines, unless the action of the legislative branch of this Government should render such adhesion feasible.

Your discretion is trusted as to the fittest mode of conveying to Her Britannic Majesty's Government, before the date named, an intimation of our inability to sign, for the present at least, the project in question.

I am, etc.,

T. F. BAYARD.

No. 528.

Mr. White to Mr. Bayard.

No. 785.] LEGATION OF THE UNITED STATES,
London, June 20, 1888. (Received June 30.)

SIR: I have the honor to acquaint you that upon the reception of your instruction No. 876 of May 17 I communicated to Mr. Walpole and to Mr. Bateman (a very able statistician at the board of trade, to whom I am indebted for much valuable information on the sugar bounty question) copies of the letter from our assistant secretary of the Treasury to yourself, dated May 14, with an intimation that I should be happy to receive any expression of opinion with reference to the view therein expressed which they might see fit to send me; and I beg to inclose herewith, for your information, the copy of a letter, with the accompanying memorandum, which Mr. Walpole has sent me in reply; also a memorandum, from Mr. Bateman on the same subject. You will observe that the latter is based entirely upon our own and the French official statements, and ignores any unofficial yield of refined sugar. Mr. Bateman in a private note, however, tells me "that it is quite a personal statement."

In view of Article VII of the draught convention, signed in April last at the International Sugar Conference, I venture to think it of great importance, not only that our Treasury, but also that the Governments represented at the conference should be satisfied that there is at present no excess of drawback over duty in the United States.

That such is not the present conviction of the delegates by whom these powers were represented at the conference there is no doubt whatever, and I may add that until the receipt of Mr. Thompson's letter I was under the same impression. the more so as no exception was taken in your instruction No. 830 of March 22, acknowledging the receipt of my report upon the first session of the conference, to the statement therein contained, that the drawback in the United States "still affords a bounty to our exporters."

I have the honor to acquaint you, in connection with the sugar-bounties question, that on the 16th instant a deputation from the "Workmen's National Association for the Abolition of Foreign Sugar Bounties" called upon me for the purpose of expressing the earnest hope of that body that the United States would not be a barrier to the abolition of bounties by refusing to sign the proposed convention. They argued that the American workingman would not be at all injured by the abolition of export bounties, whereas the British workingman would be thereby greatly benefited. I replied that it was impossible for me to say what course my Government would eventually pursue with regard to this question; but that if they would put their views in writing I should be happy to forward the document to you. They have not deemed it necessary, however, to adopt this course.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 785.]

Mr. Walpole to Mr. White.

CUSTOM-HOUSE, DUBLIN, *June* 11, 1888.

DEAR MR. WHITE: I inclose a memorandum in answer to the United States Treasury letter of the 14th of May last.

I hope you will understand that I have no wish to set up my views as against very competent authorities in the United States; indeed my desire would be to agree with the United States Government that there is no bounty on export, and you may recollect that I was glad to bring under your notice at the conference statistics showing the enormous falling off of the exports of refined sugar to Great Britain since the reduction of the drawback in 1886, but the letter of the 14th ultimo from the United States Treasury does not, I fear, dispose of the fact that there is still a bounty on export. Practically the position is as follows: A quantity of raw sugar, yielding 100 pounds pure sugar, pays duty 2.40 cents per pound, but on this 100 pounds the refiner receives 2.60 cents per pound. Now, I think that since the reduction of drawbacks in 1886, so far as the British refiners are concerned, the United States are not an important factor in the matter; but as regards foreign producers, the United States bounty, however small, may be used by them, unduly, for the purpose of defeating the convention. You will recollect that almost all the foreign delegates alleged that their Governments were ready to abolish bounties, subject to the condition that all other countries did likewise.

Foreign refiners and producers will say we like our bounties, and we think we ought to keep them; but at all events, if you are going to deprive us of them, obtain for us fair play all round.

I believe that the United States can not move in the matter at present, and I must apologize for sending you so long a memorandum. I only do so because ultimately it may be of advantage that an as exact appreciation of the matter as is possible should be arrived at; moreover, Louisiana producers may be benefited by a convention.

You will understand that the memorandum and these observations emanate from me personally, and that if I have made any mistake in the memorandum I alone am to blame, for I have not been in communication with Baron de Worms or my colleagues on the subject.

Yours, etc.,

F. G. WALPOLE.

[Inclosure 2 in No. 785.]

Memorandum on letter from United States Treasury, dated 14th May, 1888.

The scale of duties, according to polarization, presupposes a scale of yield of each grade of sugar. The scale begins at sugars polarizing 75 per cent., on which a duty of 1.40 cents per pound is levied. The duty increases .04 cent per pound with every degree of polarization, so that sugars polarizing 90 per cent. are charged 2 cents per pound, and the top of the scale, 100 per cent. polarization, is equivalent to a duty of 2.40 cents per pound. That being so, it is clear that sugar polarizing 90 per cent. is assumed, according to the scale, to yield $\frac{2}{2.40} \times 100$ or 83.3 per cent. of pure sugar. As it appears that the average polarization of raw sugar used by refiners is about 90 degrees, we can calculate what the drawback on hard sugar should be when extracted from that class of sugar. The calculation will give the same result whatever proportion of hard and soft sugar we take, but I will adhere to the proportion given by the United States refiners themselves. The scale of duties, as I have pointed out, assumes that a polarization of 90 degrees is equivalent to a yield of 83.3 per cent. of pure sugar. The figures therefore stand thus:

	Pure sugar.
65 pounds hard sugar =	65.
24 pounds soft sugar (1.84 drawback = 76.6 per cent. yield of pure sugar)	18.3
Total yield of pure sugar	83.3

The drawback and duty received by the refiner are:

	Dollars per 100 pounds.
65 pounds hard (drawback 2.60)	1.69
24 pounds soft, duty at least equal to drawback of 1.84	.44
7 pounds sirup.	
4 pounds loss of weight.	
100 Total duty returned	2.13
Duty paid on the raw sugar: 90 polarization = 83.3 yield	2.
Excess	.13

Which is equal to 20 cents per 100 pounds of hard sugar.

The refiner really gains more than this because he receives a drawback on sirup. Why he should receive that drawback it is difficult to understand, as he has already received in drawback on sugar what professes to be the full repayment of the duty he has paid on the raw, though really an excess payment of 20 cents per 100 pounds. It is erroneous to urge, because the calculation in the former memorandum (based on a yield furnished by the United States refiners) showed that the raw sugar which gave such a yield must have polarized 87, whereas the average polarization of raw sugar used by refiners is 90, that therefore this discrepancy accounts for the difference between the drawback shown by calculation and that fixed by the Government. Every raw sugar gives a yield in accordance with its strength, and every yield arrived at must presuppose a corresponding strength in the raw sugar from which it is obtained. It is not asserted nor is it probable that the refiners are charged upon an excessive yield. It is impossible for a sugar polarizing 87 to give the yield of one which polarizes 90; and it is equally impossible to impute a yield of 87 to one which should give 90, or *vice versa*. The figures taken in the former memorandum showed on calculation that they come from sugar polarizing 87. They are, therefore, no guide to the drawback which would be obtained from sugars polarizing 90.

There is no need, however, to go into any hypothetical yield because the scale of duties indicates in itself that the drawback should be on each grade of sugar, and even this calculation is unnecessary, for it is clear that the scale of duties is equivalent to a duty of 2.40 cents per pound on pure sugar and that therefore that is the correct drawback to allow on pure sugar.

The calculation of the drawback which should be allowed on each grade is as follows:

The duty on raw sugar is now levied in proportion to the pure sugar contained in it, the scale beginning at the bottom with sugar containing 75 per cent. of pure sugar, which is charged with a duty of 1.40 cents per pound, and going up at the rate of .04 cent per pound for every additional percentage of pure sugar, so that 100 per cent. of pure sugar, *i. e.*, pure sugar, would pay 2.40 cents per pound. It is evident, according

to this scale of duties, that a raw sugar containing 76 per cent. of pure sugar is estimated to yield $\frac{1.44}{2.40} \times 100$, or 60 per cent. of pure sugar, and so on up the scale, which therefore runs thus:

	Estimated yield, per cent.
Raw sugar polarizing, *i. e.*, containing, 76 per cent. of pure sugar	60
Raw sugar polarizing, *i. e.*, containing, 79 per cent. of pure sugar	65
Raw sugar polarizing, *i. e.*, containing, 82 per cent. of pure sugar	70
Raw sugar polarizing, *i. e.*, containing, 85 per cent. of pure sugar	75
Raw sugar polarizing, *i. e.*, containing, 88 per cent. of pure sugar	80
Raw sugar polarizing, *i. e.*, containing, 91 per cent. of pure sugar	85
Raw sugar polarizing, *i. e.*, containing, 94 per cent. of pure sugar	90
Raw sugar polarizing, *i. e.*, containing, 97 per cent. of pure sugar	95

The excess of drawback is therefore fully proved as follows:

Per cent. of pure sugar contained in the raw sugar.	Equivalent yield of extractable pure sugar.	Duty paid on the raw sugar; *i. e.*, drawback which should be allowed on yield of pure sugar.	Drawback actually allowed (2.60 per 100 pounds).	Excess of drawback.	Excess per 100 pounds of pure sugar.
76	60	1.44	1.56	.12	.20
79	65	1.56	1.69	.13	.20
82	70	1.68	1.82	.14	.20
85	75	1.8	1.95	.15	.20
88	80	1.92	2.08	.16	.20
91	85	2.04	2.21	.17	.20
94	90	2.16	2.34	.18	.20
97	95	2.28	2.47	.19	.20

In short, the higher a sugar polarizes the higher the yield. The variety is infinite, but whatever holds good in one particular must be equally true of every other.

F. G. WALPOLE.

[Inclosure 3 in No. 785.]

Sugar drawback in United States.

Taking the average polarization of raw sugar used by United States refiners at 89.50 degrees, I turn to the French statement of cane sugar yields for 1887 (Journal Officiel, May 30, p. 2232) and find the corresponding effective yield in refined sugar polarizing 89.50 was taken at 78.52 per cent. Taking the import duty at 2 cents per pound, this would make the true drawback 2.55 cents, or .05 less than the present United States drawback of 2.60; but there is no doubt that the French system is too favorable to their refiners, as is very clearly stated in a United States Government Report, Department of Agriculture, Bulletin No. 5. At. p. 36 Mr. Wiley says:

"The method of co-efficients described and used in France for the commercial valuation of raw sugars, though doubtless justified for certain beet and high-grade cane sugars, is open to serious objection. The results given by it necessarily vary a great deal, approaching near the truth for some, but falling far short for others, being generally too low. In cane sugar (almost the only raw sugar imported into this country) the ash is a much less disturbing factor than in sugar from beets. In this latter case the ash is largely soluble and thus produces a maximum melassigenic action, while the ash of cane sugar is largely insoluble, and therefore excites a much less injurious effect."

If, then, the deduction for ash is taken with the co-efficient 2 instead of 4, as the United States Government chemist suggests, the sugar I have described would show a yield in refined sugar of 80.96 instead of 78.52, and the corresponding drawback would be 2.47 cents. Mr. Wiley further adds: "Under the present regulations of the tariff this amount (*i. e.*, the drawback) would be found, I believe, to be nearly 2.50 cents per pound of pure sugar."

There is little doubt, then, that, taking the calculations of the United States and the French officials, these latter being notoriously very favorable to the refiners, the present export drawback in the United States of 2.60 cents is considerably in excess of the true amount.

In making the above calculation I have been careful to take sugar of 89 plus polarization, in accordance with the Secretary of the Treasury's letter to the Secretary of State of the 14th ultimo, which states that number to be the average used by refiners. I find, however, from the last trade volume of United States, for the year 1886–'87, that the No. 94 plus was the one under which most raw sugar was imported, namely, more than 11 hundred million pounds, compared with 525 million pounds at 89 plus degrees.

At the French equivalent the refined yield of raw sugar at 94.75 would be 89.61 per cent., which is equivalent to a drawback of 2.45 cents—$\left(\frac{2.20}{.8961}=2.45\right)$—thus more than confirming my calculation that 2.60 is too high.

A. C. BATEMAN.

No. 529.

Mr. Phelps to Mr. Bayard.

No. 790.] LEGATION OF THE UNITED STATES,
London, June 26, 1888. (Received July 10.)

SIR: I have the honor to inclose herewith an extract from the Times newspaper of this date, in which you will find two questions asked and answered yesterday in the House of Commons with regard to the position of the United States in respect to the sugar-bounties question.

I have, etc.,

E. J. PHELPS.

[Inclosure in No. 790.—The Times, Tuesday, June 26, 1888.]

Sugar bounties.

Mr. Picton asked the under secretary of state for foreign affairs whether the negotiations for the abolition of foreign sugar bounties extended to the abolition or the reduction of the protective duties levied by foreign nations on British sugar or on British manufactures in which sugar was used.

Sir J. FERGUSSON. No; these negotiations relate solely to the abolition of sugar bounties, and do not enter into questions of duties on sugar or on manufactures in which sugar is used.

Mr. Illingworth asked whether the Government of the United States had taken a part in the conference on sugar bounties in the same manner and on the same footing as the governments of the other countries concerned; and whether the under secretary for foreign affairs was able to give the House any information concerning the probability of the United States Government joining in and adopting the conclusions of the conference.

Sir J. FERGUSSON. The representative of the United States attended the sugar conference to listen to its proceedings and report the same, but without committing his Government. I am not able to inform the House concerning the course which the Government of the United States may take at future stages.

No. 530.

Mr. Phelps to Mr. Bayard.

No. 795.] LEGATION OF THE UNITED STATES,
London, July 7, 1888. (Received July 23.)

SIR: Referring to your instruction numbered 895, of June 18, I have the honor to inclose the copy of a note which I addressed to the Marquis of Salisbury, and that of his lordship's reply to the same.

I have, etc.,

E. J. PHELPS.

[Inclosure 1 in No. 795.]

Mr. Phelps to the Marquis of Salisbury.

UNITED STATES LEGATION,
London, July 3, 1888.

MY LORD: In view of the desire expressed in the *protocole de clôture* of the second session of the international conference on the sugar bounties question, that the opinions of the powers represented at the conference with respect to the draught convention for the abolition of export bounties should be communicated to Her Majesty's Government before the 5th instant, I have the honor, in accordance with instructions to that effect, to acquaint your lordship of the conclusions at which my Government has arrived in the matter.

You are aware that no legal bounty exists in the United States upon the exportation of imported sugar, or upon the production and manufacture of sugar; and the Secretary of the Treasury considers that the rate of drawback which is now allowed by law upon the exportation of refined sugars manufactured from imported sugars is not excessive, and does not constitute an indirect bounty, as claimed, frequent investigations having shown that the present rates of the said drawback are substantially correct, and represent the duties collected on the importation of the raw material, less the retention of 1 per cent.

The objects of the conference are, however, in the opinion of my Government, foreign to the interests of the United States, and, moreover, the question as to whether any bounty or subsidy should be allowed in connection with the production or manufacture of sugar is one which can not be determined by the executive branch of the United States Government, Congress having sole and exclusive jurisdiction in such matters.

Under these circumstances my Government considers itself precluded from giving its adhesion, for the present at least, to the proposed convention, or to any convention following the same lines, unless Congress should take action of a nature to render such adhesion possible.

I have, etc.,

E. J. PHELPS.

[Inclosure 2 in No. 795.]

The Marquis of Salisbury to Mr. Phelps.

FOREIGN OFFICE, *July* 5, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 3d instant, stating the attitude of the United States Government with respect to the proposed convention for the suppression of sugar bounties.

I beg that you will be so good as to express to the Government of the United States the thanks of Her Majesty's Government for the promptitude with which their views on the subject have been made known.

I have, etc.,

SALISBURY.

No. 531.

Mr. Bayard to Mr. Phelps.

No. 927.] DEPARTMENT OF STATE,
Washington, July 20, 1888.

SIR: Referring to previous correspondence concerning the Samoan question, I inclose herewith for your information an English translation, furnished by the United States consul at Apia, of a treaty concluded on the 24th of January last between the German consul at Apia and the adviser of the Tamasese government.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 927.—Translation.]

Treaty between Germany and Samoa.

Under the provisions of article 8 of the treaty of friendship concluded between the German Empire and Samoa on the 24th of January, 1879, the imperial German consul, Becker, and the representative of the Samoan Government, Brandeis, have deliberated concerning the following agreement, and have concluded it conditionally upon the ratification by both Governments.

ARTICLE I.

The Samoan Government engages with the Imperial German Government to maintain and to improve the public institutions in Apia which have been under the administration of the former municipality, such as ways, roads, bridges, lights, quarantine, pilotage, and harbor constructions. For its part the German Government agrees that the Germans, and those under German protection residing within the former municipal district, be subjected to the regulations enumerated below, and declared to be laws of Samoa by the Samoan Government on the 18th of January, 1888, and that they shall be liable to pay to the Samoan Government the dues and taxes as fixed by the same.

The regulations referred to are:

Regulations 8 to 13, 15 and 108, concerning the selling of spirits; concerning the right to sell spirits; concerning the license to sell spirits; concerning drunkenness.
Regulation 16, concerning the sale of fire-arms.
Regulations 17, 19, 20, 74, concerning licenses for trades and professions.
Regulations 30, 31, concerning aiding deserters from ships.
Regulation 33, concerning real-property tax.
Regulation 34, concerning poll-tax.
Regulations 64 to 69, concerning harbor police.
Regulation 75, regulation for building.
Regulation 84, concerning the so-called trading ships.
Regulation 109, concerning quarantine.
Regulation 110, concerning the prevention of contagious diseases.
Regulation 111, concerning pilotage.
Regulation 114, concerning dynamite and its prohibition.
Regulation 120, concerning cleaning the streets.
Regulation 122, concerning public roads.
Regulation 124, concerning public nuisances.
Regulation 127, concerning the Mulivai bridge.
Regulation 128, concerning riding without a bridle.
Regulation 129, concerning dog-tax.
Regulation 131, concerning slaughtering.
Regulation 132, concerning supplying intoxicating liquors to policemen.
Regulation 133, concerning playing cricket.
Regulation 134, concerning delinquent tax-payers.
Regulations 135, 136, concerning new buildings.
Regulation 137, concerning fire-works.
Regulation 138, concerning public bathing.

ARTICLE II.

The German Government agrees further that the Germans, and those under German protection in Samoa living outside the former municipal district, shall pay the same poll-tax to the Samoan Government as the Samoans pay. But no German nor any one under German protection shall be required to pay a higher amount per year than $5 for himself and family.

ARTICLE III.

If Germans, or those under German protection, feel that they have to complain about taxes or dues imposed upon them by the Samoan Government, such cases shall be tried and decided before the German consul, or his representative, together with an official of the Samoan Government.

ARTICLE IV.

By Article I the German consular jurisdiction shall not be restricted only in such cases of police offenses as are not provided for in the imperial German law. The penalties contained in the regulations mentioned in Article I and the jurisdiction of

the judge in Apia nominated by the Samoan Government to judge such cases shall be applied to German subjects and those under German protection. Appeals from the decision of the judge above mentioned, so far as concerns Germans and those under German protection, shall lie to a court composed of the German consul, or his representative, and an official of the Samoan Government.

ARTICLE V.

This agreement shall come in force after it is ratified by both Governments.

BRANDEIS.
BECKER,
Imperial German Consul.

APIA, *January* 24, 1888.

The imperial consul, Becker, and the representative of the Samoan Government, Brandeis, have agreed, by order of both their Governments, to the following addition to the treaty of the 24th of January, 1888:

SOLE ARTICLE.

It is left with the discretion of the imperial German consul at any time to declare the withdrawal of the Imperial German Government from the treaty concluded with the Samoan Government on the 24th of January, 1888.

BRANDEIS.
BECKER,
Imperial German Consul.

APIA, *May* 28, 1888.

After the deliberation of the Taimua and Faipule, I give my consent to the above treaty, concluded on the 24th of January, 1888, with the Imperial German Government and to the additional agreement of the 28th May, 1888.

TUIAANA TUIATUA TAMASESE.

MULINUU, *June* 5, 1888.

No. 532.

Mr. Bayard to Mr. Phelps.

No. 936.] DEPARTMENT OF STATE,
Washington, July 30, 1888.

SIR: The Congress of the United States has passed an act, which received the President's approval on the 9th of the present month, providing for an international marine conference, to secure greater safety for life and property at sea. By this act the President is requested to invite the other maritime powers of the world to take part in a conference, the objects of which are, in brief, to revise the present international regulations for preventing collisions at sea, especially with reference to signaling in fog; to revise the existing code of flag-signals; to compare and discuss the various systems employed for the saving of life and property from shipwreck; to devise methods of reporting, marking, and removing dangerous wrecks and obstructions to navigation; and to establish uniform means of conveying to mariners warnings of storms and other information.

The great interest and importance of this subject justifies an extended reference to the principal objects of the proposed conference and to the steps already taken in the same direction.

In 1863 the Government of Great Britain invited the other maritime nations, in the interest of commerce at large, to examine the code of

laws adopted by it in 1862 for preventing collisions at sea, and if found suitable to legalize them.

In the course of the next two years thirty-four of the principal maritime nations of the world had approved and adopted these laws.

In 1877, it having been found that the laws so adopted did not fulfill the requirements of marine commerce, the British Government took steps, by the appointment of a commission, to frame a revised set of laws. These, when formulated, were submitted to all the maritime nations, and, after sixteen of these powers had signified their approval, they went into effect on the 1st of September, 1880.

These regulations, however, are believed to be inadequate to the present needs of commerce, in respect especially to the sound-signals, for use in fog, mist, or falling snow. The increasing number and speed of steam-vessels has greatly added to the dangers of collision in thick weather, and the opinion has recently been expressed by the best authorities that the present system of signals for steam-vessels is insufficient.

The present code of flag-signals is also believed to stand in need of careful revision. This system originated in Great Britain in 1856, and experience has shown the necessity of extending the list of names of places and words and phrases, as well as of considering whether greater rapidity and accuracy in signaling can not be attained. With respect to the protection of life and property from shipwreck no general international agreement in regard to on and off shore signaling or as to the *modus operandi* of the life-saving service of the different nations is known to exist. In spite of the utmost effort of those engaged in the Life-Saving Service of the United States, lives have been lost from foreign vessels stranded on our coasts because of a misunderstanding of our methods, and it is believed that the experience of other countries in this regard is similar to our own.

The destruction, or at least the frequent and accurate reporting, of dangerous derelicts is also a matter of the highest importance; and it is obvious that this work can be thoroughly done only by means of the hearty co-operation of the principal maritime nations. Closely connected with the subject of reported derelicts is that of conveying warnings of storms, and of giving information of recently-discovered dangers to navigation, and changes in lights, buoys, and other day or night marks, which can probably best be undertaken by the adoption of some carefully-considered international system.

Another important topic, although not enumerated in the act of Congress, which gives rise to the present invitation, is that of a uniform system for the loading of vessels. This subject has recently attracted earnest attention in Great Britain, and a royal commission on the loss of life at sea, appointed in 1884, reported in August, 1887, recommending that Her Majesty's Government should take steps to invite a conference of maritime states to consider how far it might be possible to agree upon such rules and upon regulations for their enforcement. Additional force would attach to the recommendations of the projected conference were the British view in regard to overloading at sea to be brought up by Her Majesty's delegates as pertinent to the general objects of the conference rather than as matter for an independent comparison of international views.

This review of the general purposes of the conference indicates the great interest and the active measures which Great Britain has always taken in the subjects to which I have referred.

In view of this, as well as of the importance and extent of British maritime interests, the President recognizes the necessity of the adhesion of Her Majesty's Government to the plan of the proposed conference, and indeed of its active co-operation therein, if the labors of that body are to meet with general acceptance and success.

By direction therefore of the President of the United States, you will tender to the Government of Great Britian a cordial invitation to be represented, by such number of delegates as may seem to it convenient, at an international conference to be convened at the city of Washington on Wednesday, the 17th day of April, 1889, the purposes of such conference being "to revise and amend the rules, regulations, and practice concerning vessels at sea and navigation generally, and the international code of flag and night signals; to adopt a uniform system of marine signals, or other means of plainly indicating the direction in which vessels are moving in fog, mist, falling snow, and thick weather, and at night; to compare and discuss the various systems employed for the saving of life and property from shipwreck; for reporting, marking, and removing dangerous wrecks or obstructions to navigation; for designating vessels; for conveying to mariners and persons interested in shipping warnings of approaching storms; of dangers to navigation; of changes in lights, buoys, and other day and night marks and other important information; and to formulate and submit for ratification to the governments of all maritime nations proper international regulations for the prevention of collisions and other avoidable marine disasters."

It will be understood by all states taking part in this conference that no questions relating to the regulation of trade and commerce are within the scope of the discussion, and that in the disposition of questions to come before the conference no State shall be entitled to more than one vote, whatever be the number of delegates it may send.

You will make this invitation known by reading this instruction to Lord Salisbury, and by leaving a copy with him should he desire to possess it.

Your own discretion will doubtless suggest to you the most effective manner of making known the great interest taken by the President in the benevolent purposes of the projected conference, and his desire and expectation that in the universal interest of sea-faring humanity Her Majesty's Government will receive and respond to our invitation in the same spirit in which it is extended.

I am, etc., T. F. BAYARD.

No. 533.

Mr. Bayard to Mr. Phelps.

No. 937.] DEPARTMENT OF STATE,
Washington, July 30, 1888.

SIR: Referring to my instruction of this date, touching the invitation to the Government of Great Britain to be represented at an international marine conference, to secure greater safety for life and property at sea, to be held at Washington on the 17th day of April of next year, I inclose herewith for your information copies of the act of Congress in pursuance of which such invitation was given, and of the President's message to Congress commending the subject to their favorable attention and transmitting numerous documents in relation thereto.

I also inclose for your information copies of the circular invitation addressed to our ministers in the other maritime nations, which, as you will observe, is similar in tone to that addressed through you to the Government of Great Britain, but emphasizes rather the alacrity and unanimity with which the maritime powers have responded to ascertained needs of navigation, than the particular initiative of Her Britannic Majesty's Government in bringing about desirable reforms, upon which it has been thought well to lay stress in inviting the concurrence of Great Britain in a more extended scheme of revision.

It has also seemed advisable in the general invitation to omit reference to the load-line question, inasmuch as it is not included in the purposes for which the conference is called as enumerated in the act; but in view of the great interest felt in Great Britain in regard to this subject of legislation, and the numerous efforts there made to deal effectively with the general question of sending ships to sea in an unseaworthy state, it is hoped that the question shall be brought before the conference through the initiative of the British delegates and exhaustively considered.

It will be well for you to bear in mind, in such negotiations as you have in regard to this matter with Her Majesty's Government, that the invitation addressed to it has been much more specific than that addressed to other Governments, in view, of course, of the very peculiar importance of securing the cordial co-operation of Great Britain in the proposed conference.

I am, etc.,

T. F. BAYARD.

For circular instructions July 30, 1888, see Doc. No. 1131 post, page 1659.
For act of Congress approved July 9, 1888, see Doc. No. 1131 post, page 1662.
Ex. Doc. House of Representatives No. 62 not printed herewith.

No. 534.

Mr. Bayard to Mr. Phelps.

No. 942.] DEPARTMENT OF STATE,
Washington, August 2, 1888.

SIR: I have to inclose herewith a copy of a note* addressed to me by the British chargé d'affaires at this capital, on the 26th of June, soliciting the views of this Government in respect to a treaty made by Germany with the present Samoan Government on the 24th of January last, in regard to the municipal administration of Apia, and the taxation of German subjects living outside of the limits of the municipality. I inclose also a copy of the treaty† in English.

It provides that German subjects in the municipality shall be amenable to certain of the former municipal regulations converted into Samoan laws by the proclamation of the Samoan Government of the 18th of January last, and shall pay to the Samoan Government the taxes and contributions therein specified.

It provides that German consular jurisdiction in Samoa shall not be in any way restricted by the foregoing provisions. Nevertheless, they are to be enforced in the first instance by a judge appointed by the

* Not printed herewith.
† For translation of treaty see inclosure in Mr. Bayard's No. 927 to Mr. Phelps, *ante*, page 739.

Samoan Government, from whose decision an appeal is to lie to the German consul at Apia, or his *locum tenens*. Outside of the municipality of Apia, German subjects and those under German protection are to be required to pay the same poll-tax to the Samoan Government as Samoans, provided it does not exceed $5 a year for a person and his family.

This is a substantial outline of the treaty.

As you will perceive by the inclosed note, Her Majesty's Government are disposed to conclude a similar treaty with Samoa, on condition that the regulations referred to be embodied in a British regulation of Her Majesty's high commission under the Western Pacific orders in council, 1877–1880, and enforced exclusively by the British consul as deputy commissioner.

There is one clause in the note, the scope of which I do not fully comprehend. It is said that it must be stipulated in the British-Samoan agreement that British subjects shall be under the "exclusive jurisdiction" of the British consul as deputy commissioner. I understand this to have reference only to the enforcement of the regulations.

This being so, I find it necessary to inquire whether Her Majesty's Government propose to consider the question into whose hands the taxes thus levied and the fines thus imposed shall be paid, and how the moneys so obtained shall be expended.

So far as the adoption of the regulations is concerned, my views coincide with those expressed by the Marquis of Salisbury, that it is expedient to put them in force; and, as I find in the German agreement no conventional guaranty in respect to the Samoan official, who is to enforce them, I do not perceive, at present, any reason why the United States should yield any part of its existing exclusive consular jurisdiction over Americans in Samoa. But, before expressing further concurrence with the views of Her Majesty's Government, I should be glad to learn whether it would not be thought advisable in thus converting the late municipal regulations into American or British regulations to make some further provision in any future British or American convention with Samoa, which would afford guaranties in respect to the disposition and application of such revenues.

This is a question of practical administration in respect to which Germany appears to possess at present such influence as to render it in her judgment unnecessary to exact nominal guaranties, which may, however, be essential to the United States and Great Britain.

The inclosure referred to in the note of the British chargé is a confidential paper printed for the use of the foreign office June, 1888, and entitled "Apia municipal regulations referred to in Article I of German agreement with Samoa."

I am, etc.,

T. F. BAYARD.

No. 535.

Mr. Phelps to Mr. Bayard.

No. 823.] LEGATION OF THE UNITED STATES,
London, September 11, 1888. (Received September 22.)

SIR: It is with very great gratification that I inclose the copy of a letter which I have just received from the foreign office with respect to Messrs. Taylor and Armistead, graduates of the United States Naval Academy

and for the past three years private students of marine engineering at the Royal Naval College, Greenwich.*

You will observe that in the recent final examination Mr. Taylor obtained the first place, with a total of 8,234 marks, an amount that has only once been exceeded; and he was awarded a professional certificate of the first class, besides being highly commended by the director of studies.

Mr. Armistead obtained the fifth place in the same examination and was awarded a professional certificate of the second class.

I have, etc.,

E. J. PHELPS.

[Inclosure in No. 823.]

Sir T. V. Lister to Mr. Phelps.

FOREIGN OFFICE, *September* 8, 1888.

SIR: With reference to my letter of the 15th October, 1885, on the subject of the admission of two graduates of the United States Naval Academy at Annapolis as private students of marine engineering at the Royal Naval College, Greenwich, I have the honor to inform you that I have received a communication from the lords commissioners of the admiralty with regard to the places obtained by those gentlemen in the final examination of students of marine engineering and private students at the college in July last.

Their lordships state that Mr. Taylor obtained the first place in that examination and was awarded a professional certificate of the first class, with a total of 8,234 marks, an amount that has only once been exceeded in this examination, and that the director of studies reports that "Mr. Taylor has great natural ability, and has worked very steadily throughout his three years' course."

With regard to Mr. Armistead, the lords commissioners have informed me that he obtained the fifth place in the same examination, and was awarded a professional certificate of the second class.

I have, etc.,

T. V. LISTER.
(For the Marquis of Salisbury.)

No. 536.

Mr. Phelps to Mr. Bayard.

No. 827.] LEGATION OF THE UNITED STATES,
London, September 14, 1888. (Received September 24.)

SIR: I have the honor to transmit herewith a report by Mr. White, first secretary of this legation, upon the third session of the international sugar bounties conference, with the documents therein referred to.

This report will, I think, be found both accurate and full, and I can add nothing to what it contains.

I have, etc.,

E. J. PHELPS.

[Inclosure in No. 827.]

Mr. White to Mr. Bayard.

LEGATION OF THE UNITED STATES,
London, September 10, 1888.

SIR: I have the honor to acquaint you that the third session of the international conference on the sugar bounties question was held in London towards the end of

* For conditions regulating the admission of students to the Royal Naval College at Greenwich, see Mr. Welsh's No. 257 to the Department, F. R., 1879, pp. 472-8.

last month, and that its labors were brought to a conclusion by the signature on the 30th ultimo of a convention for the abolition of bounties "on the manufacture or exportation of sugar" by the plenipotentiaries of Great Britain, Germany, Austria-Hungary, Belgium, Spain, Italy, the Netherlands, and Russia.

I inclose herewith copies of a supplement to the London Gazette of the 6th instant,* containing translations into English of—

(*a*) The proceedings of the second session of the conference, the originals of which, in French, were forwarded to you in my dispatches numbered 726, 747, 752, 754, and 760.

(*b*) The communications received by Her Majesty's Government with respect to the draught convention annexed to the protocol of May 12, 1888, from the United States, Germany, Belgium, Brazil, Denmark, Spain, Austria-Hungary, France, Italy, the Netherlands, Russia, and Sweden.

(*c*) The *procès-verbaux* of the twenty-third, twenty-fourth, twenty-fifth, and twenty-sixth meetings of the conference. (The original, in French, is also transmitted.)

(*d*) The convention.

(*e*) A declaration annexed thereto, providing for the creation of a special commission (as distinct from the permanent commission created by Article VI of the convention) to examine and report upon the existing or proposed legislation in the different countries for bringing the convention into force.

(*f*) A protocol, also annexed to the convention, embodying "declarations" by Brazil, Denmark, France, and Sweden, who declined to sign it; by Austria-Hungary; and by the British plenipotentiaries in behalf of Egypt, whose adhesion to the convention was thereby given, together with a statement made by one of the Belgian plenipotentiaries, in behalf of his Government, at the twenty-sixth meeting of the conference, which it was agreed should have the same effect as the "declarations" embodied in the protocol.

The chief differences to be noted between the convention as finally signed and the draught convention of last May are—

First. The disappearance of Article IV of the latter document, which I ventured to predict in my report of the first session of the conference would occur, and the insertion in its place of a new article whereby Great Britain and her colonies are bound neither to impose differential duties on foreign sugar nor discriminating duties on beet sugar imported from countries taking part in the convention.

Second. Verbal alterations in Article VI, and the addition of an important paragraph, at the instance of the French ambassador, to Article VII.

Third. The date at which the convention shall be put in force is postponed to September 1, 1891.

It will be seen from the documents herewith transmitted that Denmark is unable to sign the convention, owing to a belief that Article VII (the "penal clause" referred to at length in my reports of the first and second sessions of the conference) conflicts with the most-favored-nation clause in several of her treaties; that France is unwilling to commit herself to the abolition of bounties until all the sugar-producing countries of the world have agreed to do likewise; that Austria-Hungary only signed the convention on the understanding that if all the European sugar-producing countries have not become parties thereto before September 1, 1891, she shall have the right of deciding whether or not she will then put it into force; that Brazil adheres in principle, and reserves the right to join the convention after its adoption by the signatory powers; and that Sweden maintains an attitude of reserve.

It will be observed that under Article VI any country which levies no duty on sugar or which gives no drawback may become a party to the convention without being compelled to adopt the system of manufacturing and refining in bond provided for by Articles II and III; and that the permanent commission created by Article VI, to see that the terms of the convention are carried out, is to "collect, translate, arrange, and publish information of all kinds respecting legislation on and statistics of sugar, not only in contracting countries, but in all other countries as well." Among the latter it is quite certain that the United States will come in for an important share of the commission's attention.

I inclose herewith leading articles from the Times, Daily News, Standard, and Daily Telegraph newspapers* with reference to the convention; and letters on the same subject from Mr. Webster, member of Parliament for one of the St. Pancras divisions of London; from Sir Thomas Farrer, late permanent secretary to the board of trade; from Mr. Martineau, and from Mr. Neville Lubbock (whose letter to me on the sugar-bounties question was transmitted to you in my dispatch No. 757). These articles and letters set forth the views of those who are in favor of and of those who are opposed to the abolition of sugar bounties in this country.

Mr. Webster claims that we are still giving a bounty of 50 shillings per ton in the

* Not printed herewith.

United States; and in this connection I venture to refer to my dispatch No. 785 of June 20 last.

It is provided by Article VII of the convention that "the fact of the existence in any country" of a system of open or disguised bounties on sugar shall be established by the decision of a majority of the signatory powers; and I feel convinced from what I observed at the two sessions of the conference which I attended that if any such vote were taken at the present moment it would be to the effect that a disguised bounty exists in the United States. Moreover, I doubt very much whether, so long as our system is maintained of charging duty on the raw material and of giving a drawback on the exportation of the manufactured article, it would be possible to obtain a majority of the Governments represented at the conference to vote otherwise, even if our rate of drawback were still further reduced; as most of them believe it to be impossible to fix any rate of drawback which would be the exact equivalent of the duty levied on the raw material. The reasons for this are stated in my report upon the first session of the conference.

The proceedings of the two last sessions having been made public, my dispatches Nos. 722, 726, 729, 747, 752, 754, 760, and 785 need no longer be considered as confidential.

In the translation herewith forwarded, I am reported, by a clerical error, to have referred, at the ninth meeting of the conference, to a report of the Secretary of the Treasury upon the national "defenses." It should be, and is in the French original and in the translation of what I said on that occasion, inclosed in my dispatch No. 722, "finances." It will also be found upon reference to the *procès-verbal* in French, of the same meeting (forwarded in my dispatch No. 726), that I did not say that our rate of drawback had been reduced in consequence of "representations made by this legation," as stated in the translation, but "after" such representations had been made.

I have, etc.,

HENRY WHITE.

[Inclosure 2 in No. 827.—London Times, Monday, August 27, 1888.]

Mr. Webster to the editor of the Times.

SIR: No one can doubt that before long a great deal of attention will be given to the result of the conference now being held respecting sugar bounties, and that the vast majority of those who have carefully considered this question sincerely trust that the result of this conference may be the termination of the present pernicious system, which it appears evident all foreign governments themselves are almost ashamed of as a system at once rotten in itself and a large drain on the national exchequers.

In the first instance no doubt they did not know they were giving bounties to their sugar refiners, and at the present time, although the United States Government is giving a bounty equal to about 50 shillings a ton, the fact of such being the case is not openly avowed. The reason that they profess not to be giving bounties is the manner in which they levy the duties. Our competitors in the industrial markets of the world, as most of us are aware, put a tax upon sugar, and at the same time they say to the sugar refiners and sugar growers, if you send any sugar out of the country we shall give you the tax back again and call it a drawback. The original idea was, if you pay £4 or £6 per ton duty upon the sugar you produce, we will give you back an equivalent sum if you sell this article to foreign consumers.

In precisely the same way our own malt tax used to be levied, the tax upon British beer being then levied not on the beer but on the malt, and the drawback the British farmers used to receive for feeding cattle was equal to the amount of the tax.

Precisely the same thing is done in France, Germany, Belgium, and Holland in regard to sugar. Instead of taxing the sugar they tax the roots from which the sugar is made, and they, when the sugar is exported, pay a drawback upon the actual sugar. In fixing the quantity of sugar which it is arbitrarily considered can be extracted from the beet-root care is taken by the sugar refiners that the estimated yield is calculated on as small a basis as possible, and in Germany the quantity is 8½ tons in 100 tons of beet-root. The refiner on purchasing the beet-root pays the duty on this estimate on every 100 tons. But as a matter of fact, owing to improved modes of cultivation and improved machinery, the actual yield, instead of being only 8½ tons in 100 tons of beet, is often 12 tons and even, it is said, higher. Therefore, as the tax on the domestic sugar is £6 a ton, the grower will pay for 100 tons of beet £51 of taxes, and when he exports it will receive from the Government £75 back, by which means he gains as nearly as may be £24; in reality about £2 per ton upon every ton of sugar exported.

Now, the argument may be adduced by some: If you are getting sugar £2 cheaper per ton—that is, for £18 instead of £20 per ton—is not that a great gain to the coun-

try, and ought we not, therefore, to encourage this system instead of seeking to abolish it? To that I would reply, what is good in one occupation is good in all, and that, as the majority of the inhabitants of these islands are engaged in industrial occupations, if all the various industries in this country were subject to this bounty system, what would be the good of cheap sugar or any other commodity if you had not the money to buy it with? Now, let us carefully consider why the foreigner pursues this aggressive protective system within our shores. Does he do it for philanthropic motives; to give us sugar more cheaply? Not a bit of it. The object in the first instance is to cripple the industry, and, if possible, to destroy it within our borders.

Take for instance the possibility that these bounties are kept on for twenty years. The chances are that by that time our colonial and British sugar trade would cease to exist. Some might say if they were taken off you would have a chance of getting the trade back. To any one who understands what the loss of a connection means this argument is without force. There are many firms in this country making large profits on the reputation acquired by their predecessors. If the foreigner gets the business completely in his hands he will take the bounty off and the price of sugar will rise enormously.

At present it is only calculated to give us sugar at one-fourth pence per pound cheaper. If, indeed, it does that, and if a free-trade market was established in this country for the sale of sugar, and not a protected one in favor of the produce of the foreigner and against the British colonial producer, the British manufacturer, and workingman, competition would soon keep the price of sugar at its present level; but the produce would come from British colonies and give from that fact tenfold the employment to British industries than is the case by our purchasing this artificially bolstered-up industry from the beet-root sugar-producing countries.

We are told that the French alone are throwing difficulties in the removal of these duties. Whether that is so or not the papers which will in due course be presented to Parliament will alone show. The English market I find is rather an important factor in French external commerce, and France can not afford to trifle with us if we are really in earnest in determining to abolish by the best practical means at our command this insidious system of veiled bribes, which has already partially destroyed an important industry in the British Empire. France on an average of years exports £32,000,000 of her products to the United Kingdom; we send to France annually of our goods less than half that annual value, or about £15,000,000. Of the goods of Germany, Holland, and Belgium, we purchase £63,000,000, and sell to them somewhere about £30,000,000. But, taking France alone, our imports of manufactured goods and goods partly manufactured, leaving out breadstuffs and other alimentary substances, are about £23,000,000 per annum; while our exports to France are about £13,000,000. These facts give me scope for imagining, if we are only firm, that the French nation will see the desirability of at some time taking off their own shoulders the heavy impost they now have in the payment of these sugar bounties, and not needlessly causing irritation in the minds of a nation whose commercial dealings with them are of such magnitude, and whose statesmen unanimously condemn the present system of bounties; and not only is the feeling against this secret protective system strongly felt by ministers and ex-ministers of the Crown, but also by the great bulk of the working classes of the country.

Now, sir, what do the working classes of this country say would be the best remedy to prevent the continuance of this system. Some say, let them continue their bounties if they are foolish enough to do so, and pay annually away (mainly to their manufacturers) £7,000,000 or £8,000,000 a year. We will stand at the port of entry of this commodity into this country and simply demand an equivalent in the shape of a countervailing duty, equivalent to the actual bounty received, and give this sum in aid of the taxation in the United Kingdom. Others, again, say the best way to deal with the bounty-protected commodities sent to our shores, which destroy the principles of free trade, that is, equality of competition, is to keep them out. To put it in the words of one of the delegates at an important conference recently held of the London Trades' Council at the Westminster Palace Hotel, who thus put it: "We will say to France, we do not want your sugar; keep it. But we will not trench upon your free-trade principles and practices, whether you or others do so. We have the right and power to prevent your bounty-fed goods from coming into Great Britain, and that power we will use in self-defense." This, he said, was the way out of the difficulty, and while he sympathized with the idea that we should not do anything to harass any other nations, it seemed to him the only possible alternative, and on this line a unanimously carried *addendum* to a resolution on the subject was proposed by Mr. Shipton, as follows: "That, without attempting to prejudge the opinion of any organization, this conference believes the policy of total prohibition of bounty-fed products to be the most acceptable remedy to bring about the abolition of foreign state bounties."

That this question has been for a long time rankling in the minds of many of those who have given their attention to it as a burning injustice to British industry I think

few can dispute. It is not my intention to here dwell at length on the great loss it is to many industries besides the industry immediately concerned, such as the shipping, the engineering, the colliery interest, the sack-making, etc., and which have indirectly been to some extent the sufferers by this pernicious system. Nor do I here propose to deal at any length with the vast displacement of capital which has resulted by our allowing the great cane-producing industries in our colonies to be unfairly attacked, and practically in many instances completely abolished by means of these bounties paid by foreign governments in British markets. These facts are known too well. It seems to me time the question was grappled with in earnest, and I believe, and believe with confidence, that it is now in the hands of ministers of the Crown who are determined to spare no effort to solve the question satisfactorily, who will not enter into the subject brimful of antediluvian theories of political economy, but who will not shrink from their determination to give equality of competition to British labor and fair play to this or any other industry which is attacked in an insidious and underhand manner.

I am, sir, etc.,

ROBERT GRANT WEBSTER.

BLACKFORD, PERTHSHIRE, N. B.

[Inclosure 3 in No. 827.—London Times, Wednesday, September 5, 1888.]

Sir Thomas Farrer to the editor of the Times.

SIR: The result of Baron de Worms' labors is before us. The mountain has brought forth!

All the nations who joined in the conference pronounce sugar bounties to be bad things, except the United States, who maintain a cautious silence. England, Germany, Belgium, Spain, Italy, and Russia promise one another that they will boycott bounty-fed sugar, wherever it comes from.

The United States hold aloof altogether; Austria reserves her final adherence until all European sugar-producing and consuming countries also adhere; Brazil reserves her freedom; Denmark refuses to boycott because it would be a breach of treaties; France reserves her adherence until all sugar-producing and consuming countries adhere, and until she is satisfied with their laws; Sweden refuses to bind herself in any way.

France, Austria, and Brazil are great sugar-producing countries. Except ourselves, the United States are the largest consumers of sugar in the world, and they are also large producers.

Consequently, the effect of our boycotting bounty-fed sugar will not be to prevent its being made or sold, but only to prevent our own people from getting the benefit of it. France, Austria, Brazil, the United States, or other sugar-producing countries, may continue to give bounties, and the only effect or tendency of the convention will be to make it dearer here than it is now, and cheaper in non-boycotting countries. Any countries which still choose to give bounties will find markets in the United States and elsewhere.

The convention is to be worked as follows: The countries which are really parties to it are, besides ourselves, Germany, Holland, Belgium, Russia, Spain, and Italy, of which Germany, Holland, Belgium, and Russia are large sugar-producers. Egypt may be left out of the question.

These six nations, with ourselves, are to constitute a commission, which is to sit in London. This commission is to report what sugar in any country is bounty-fed, and, if bounty-fed, to what extent. This is one of the most perplexing technical questions which financial necessities have ever inflicted upon legislators—a question which all the cleverest experts of the ablest governments have hitherto been unable to solve. Upon reports thus obtained a majority of the signatories to the convention is to decide, and their decision is to rule the action of the Governments parties to the convention, and to bind those Governments to boycott sugar, from whatever country or colony it may come, which is that determined to be bounty-fed. In other words, Germany, Holland, Belgium, Russia, Spain, and Italy, or any four of them, being themselves competitors in our markets for the sale of their own sugars, are to determine whether we shall buy sugar from the United States and Sweden, who will certainly not be parties to the convention, or from France, Denmark, Austria, and Brazil, who at present reserve their adherence and may probably not be parties to it, or from any other sugar-producing countries. Germany, Holland, Belgium, and Russia get from us a promise that we will boycott any sugar from other countries which they or a majority of the parties to the convention for the time being pronounce to be bounty-fed, the only consideration which they give us for this mischievous and embarrassing obligation being a promise on their part that they will not themselves send us cheap bounty-fed sugar or receive it themselves.

Further, the parties to the convention undertake that the most-favored-nation

clause, which is, of course, an obstacle to boycotting, "shall not be pleaded with a view to evading the consequences of the stipulation for the exclusion of bounty-fed sugar." This is all very well as regards the signatories to the convention; but as regards other countries who are not parties to it, it has no effect at all, and since we have most-favored-nation treaties with many of such countries, we shall expose ourselves to just complaint and retaliation on their part if we boycott their sugars at the instance of competing nations who are parties to the convention. According to a return made in 1879, we have most-favored-nation treaties with the Argentine Republic, Austria, Chili, China, Denmark, Portugal, Sweden, Turkey, and the United States, not to mention less important countries.

Further, there are in the convention stipulations binding our colonies to adhere to it, but providing for their withdrawal. The operation of these clauses is obscure, and may not be unimportant if, as I believe to be the case, some of them do now give bounties. It would be a curious operation of the convention if we were forced by it to boycott our own colonies. But, however this may be, one thing is quite clear, viz, that we promise, both for ourselves and for all our colonies, that we and they will not, under any circumstances, show any favor to the sugars of our West Indian and other colonies or possessions over that shown to the beet sugars of their rivals in Europe.

I might go further and show how the convention will operate in throwing upon us and upon the other Governments parties to the convention the obligation, not only of examining and supervising the management of all sugar factories and refineries in countries parties to the convention, but also of forming a judgment on the operations of manufacture in countries not parties to the convention. But it is scarcely necessary to go further. It is obvious that the stipulations noticed above will entangle us in a web of complicated and embarrassing commercial and financial restrictions. They will not put an end to bounties; but they will tend to make sugar cheaper to non-boycotting nations and dearer to ourselves; they will involve us in vexatious prohibitory legislation; and will probably also involve us in breaches of valuable commercial treaties.

These observations on the details of the convention leave almost untouched the larger question, whether under any circumstances it can be right for this country to retaliate upon foreign bounties for the purpose of putting an end to them. Foreign bounties are very bad things, but foreign protective duties are worse. We do not retaliate upon foreign protective duties, which have no compensatory advantages for us, because it is not our interest to do so. And *a fortiori*, it is not to our interest to retaliate upon bounties the compensatory advantages of which to us are very great, and probably, in the case of sugar, preponderate over the disadvantages.

Putting aside for the moment this larger question, on which there is a great deal to be said, it is obvious that this convention, while it may help some other countries to improve their own foolish systems of taxation, must embarrass and injure us. It restricts our freedom, it is the first great departure from the wise policy of the last fifty years, and it throws doubt on our advocacy of the principle of free imports. It does not put an end to bounty-fed sugar, but it diverts the stream from countries which are foolish enough to boycott it to countries which are wise enough to receive it, and thus tends to make sugar cheaper to our neighbors and rivals and dearer to ourselves.

It is well that the ratification of such a convention should be delayed for two years. Much may happen in that time. If this and no more than this is the result of Baron de Worms' much betrumpeted exertions, we may conclude that their real object is rather to produce an effect on certain constituencies than to form a ground for practical legislation. But, even if no further harm ensues, we may be permitted to regret the somewhat undignified spectacle of an English minister making the round of Europe, cap in hand, teaching foreign finance ministers their business, advising them not to tax their own people for our benefit, and humbly beseeching them not to make us a present of cheap sugar. What wonder if they make such a minister their cat's-paw.

Bounties, like protective duties, are bad things; but this is not the way to get rid of them.

T. H. FARRER.

ABINGER HALL, *September* 3.

[Inclosure 4 in No. 827.—London Times, Tuesday, September 11, 1888.]

Mr. Lubbock to the editor of the Times.

SIR: The letter in your columns of yesterday on the subject of the sugar bounties convention from Sir T. H. Farrer will be read with the attention to which anything coming from the pen of the late permanent chief of the board of trade is naturally entitled. That the convention should be as gall and wormwood to him will cause no surprise to those who have for years past watched the intense—I have almost said the acrimonious—zeal which he has displayed in preventing anything whatever being done to bring about a cessation of bounties.

Sir Thomas Farrer says: "Bounties, like protective duties, are bad things; but this is not the way to get rid of them." Perhaps he then would explain how he would get rid of them. The doctrine was preached many years ago that foreign Governments, if left alone, would abolish bounties themselves. This has been tested for twenty-five years, with the result that the policy of giving bounties, so far from being abandoned, has been largely extended. Your correspondent taunts the Government with going cap in hand to foreign powers, but this has been rendered necessary by the commercial policy of this country for the last half century. Would he have wished the Government to follow the example of Spain, who, when she wished us to reduce the duties on her wines, did not come to us cap in hand, but imposed 30 per cent. extra duty on English goods going into Spain? Although this measure was successful, it was one which Sir Thomas Farrer would hardly wish to see imitated by our Government.

Your correspondent speaks more than once of cheap bounty-fed sugar in such a way as to lead any one who was excessively ignorant into the belief that bounty-fed sugar is cheaper than non-bounty-fed sugar. I need hardly say that this is not, and never can be, the case, either with or without the convention. Sugar, bounty-fed, or otherwise, will sell at the same price in the same market relatively to its value at all times.

Sir Thomas Farrer fears that we may possibly under the convention be prevented from buying sugar from the United States and Sweden. The United States produce less than 200,000 tons, and consume more than 1,200,000 tons, so that they are not likely to have any surplus sugar to send us for some time to come. Sweden may or may not export sugar, but if she does the quantity is so small that it finds no place in any published returns available to those interested in the sugar industry. He also throws out some doubts respecting France, Austria, Brazil, and Denmark. But the quantities of sugar we received from France and Austria are comparatively small, while from Denmark we receive none at all. But as regards Austria and Brazil, there can hardly be a doubt as to their adhesion to the convention, and I believe it will be found that France will also come in. But even if these powers remain outside, the total amount of sugar available for export from France and Austria is hardly one-twentieth of the world's supply, and the effect of excluding their sugar would consequently be absolutely inappreciable upon the price. Moreover it must be borne in mind that it is only sugar receiving a bounty that will be boycotted. Brazil does not give a bounty, so that her sugar would in no case be shut out, and as for France and Austria, these powers are solemnly committed by their declarations in the protocol to the policy of suppressing bounties.

Further, a complaint is made that the process of ascertaining whether sugar is bounty-fed or not is one of the most perplexing technical questions which financial necessities have ever inflicted upon legislators, a question which all the cleverest experts of the ablest governments have hitherto been unable to solve. But this is a complete mistake. It is quite true that some of the authorities of the board of trade, while Sir T. Farrer was its chief, professed to find great difficulty in ascertaining whether bounties were granted or not in certain countries, but no such difficulty has been found by foreign officials, and the countries giving bounties are perfectly well known not only to them but to all concerned in the industry. I should be sorry to think that the officials of our own board of trade, under their late chief, were lacking in intelligence as compared with foreign officials; but if Sir T. Farrer, when alluding to "the cleverest experts of the ablest governments," meant to refer to his own department, there is, I fear, no other conclusion to be arrived at.

Further, some alarm is expressed at the possible effect the convention may have in preventing our colonies from giving bounties, and that we may have to boycott their sugar. It is really quite amusing to see Sir Thomas Farrer posing as the friend of our colonial sugar industries, and professing alarm on their account, but I am happy to be able to reassure him. The colonies are included in the convention, and all their sugar industries are fully represented upon the British and Colonial Anti-Bounty Association, of which I am the chairman, and I am in a position to say that there is not the slightest fear of our having to boycott any colonial sugar whatever.

It is not for me to say whether Sir T. Farrer's allusions to Baron Henry de Worms are in good taste; but I do know that those who are practically acquainted with the subject are best able to appreciate the great ability shown by the baron in overcoming the difficulties he has had to contend against—difficulties which Sir T. Farrer, in spite of his condemnation of bounties, has certainly not assisted to remove. I believe the services rendered by Baron de Worms will be more generously appreciated by an unprejudiced public, as I know they are by our sugar-growing colonies and the home industries connected with sugar.

I am, etc.,

N. LUBBOCK,
Chairman of the British and Colonial Anti-Bounty Association.

BILLITER HOUSE, *September* 6.

No. 537.

Mr. Bayard to Mr. Phelps.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 1, 1888.

PHELPS, *Minister, London:*

It is reported by a telegram of the 14th instant that Tamasese has been overthrown by Mataafa. The latter has been declared King by nearly the whole population and is constantly gaining strength. Ascertain whether the foreign office has received the news. The choice of the Samoan people will be respected, it is assumed, by the treaty powers, in accordance with the understanding. This Government intends to do so. Similar instructions have been sent to our minister at Berlin.

BAYARD.

No. 538.

Mr. Rives to Mr. Phelps.

No 973.] DEPARTMENT OF STATE,
Washington, October 9, 1888.

SIR: I have to inclose herewith for your information and to ask your special attention to copies of two dispatches from the United States vice-consul at Apia, dated respectively the 11th and 14th of September, 1888, in which an account is given of the recent hostilities among the natives in Samoa, resulting in the complete overthrow of the Brandeis-Tamasese Government.

The Imperial German Government has given us the assurance that it does not propose to interfere in the strife between the natives for the purpose of controlling their choice of a Government.

It is proper to say that in their recent course which seems to have been in a great measure unanticipated by the foreign element in the Islands, the Samoan natives have shown a spirit and resolution that appeal most strongly to our sense of humanity.

I am, etc.,

G. L. RIVES,
Acting Secretary.

[Inclosure 1 in No. 973.—Extract.]

Mr. Blacklock to Mr. Rives.

No. 150.] CONSULATE-GENERAL, UNITED STATES OF AMERICA,
Apia, Samoa, September 11, 1888. (Received October 8.)

SIR: Affairs in Samoa have taken a decided change since last mail; then all was apparently quiet and peaceful, but now everything is excitement and trouble. The whole of Samoa is in open rebellion against Tamasese, and you will see from the record of current events inclosed that the Tamasese Government is in a bad state.

I have, etc.,

W. BLACKLOCK,
U. S. Vice-Consul-General.

[Inclosure 2 in No. 973.]

Record of current events.

CONSULATE-GENERAL OF THE UNITED STATES,
Apia, Samoa, August 27.

Talolo from Tuamasaga chiefs to Tamasese, and the ceremony of giving away a name to Tamasese.

Her Britannic Majesty's consul, H. de Coetlogon calls.

August 28.—Another or a continuation of yesterday's doings; dissatisfaction brewing on account of Brandeis breaking into the native customs and also insisting that the name of Malietoa be given to Tamasese.

August 29.—A repetition of yesterday, and a report that several hundred natives have taken to the bush; also that Brandeis proposes to disarm the Malietoa natives. The French corvette *Fabert* arrives from Tahiti.

August 30.—Great excitement last night among the natives on Mulinuu, and the Germans, owing to the natives in revolt against Tamasese, threatening a raid on the point.

August 31.—Early this morning Brandeis, at the head of about 600 natives, goes inland to put down the revolt.

Natives just arrived from the bush report a skirmish, and a dead body is brought in. Great numbers from both parties are taking to the bush.

Things are beginning to look serious. The engagement took place about 3 miles behind Apia; five reported killed; one chief from Mulinuu killed, and a chief of the Malietoa party killed also. The other deaths were common people.

Although the Tamasese people make the attack and surprise the others, they return without accomplishing anything. Reported that a number of the Tamasese people are now leaving the point and joining the opposition.

To-night everything deathly still; all native houses have their blinds down. Men all sleeping, and in every house two old women are watching and keeping guard to prevent a surprise being made on them. The men are all armed; every one has his gun alongside of him.

The people on the point are very uneasy, expecting the Malietoa party are going to make a raid on them.

Sep'ember 1.—Nothing serious happened last night. This morning Tamasese's people are returning home to their different villages. The Tuamasaga people got orders yesterday to report at Mulinuu in the afternoon, but they took no notice of it, and not a single man went. In yesterday's engagement Tamasese's force was about six hundred and the bush party about forty; merely a skirmish squad.

The killed and wounded on both sides were about equal. Brandeis was certainly not victorious, as he came back without doing anything, and the other party killed as many as he did.

September 2.—Great preparations on both sides for a renewal of hostilities on Tuesday next. Many of Tamasese's people leaving and joining the Malietoa people. All Tuamasaga people take to the bush.

September 3.—Tamasese's people are fortifying Mulinuu. Natives are arriving from Savaii and joining both parties.

This afternoon the German man-of-war *Adler* lands a squad of men armed at Mulinuu.

The excitement increases and an engagement is expected either to-night or to-morrow morning.

September 4.—Before daylight this morning a German man-of-war boat boards an English boat coming round Mulinuu point and examines the cargo. Natives from Mulinuu go to Matautu, Vaialu, and Matafagatele and take up their quarters in the houses vacated by the Malietoa people. They commence depredations on Hamilton's property, notwithstanding his having notices and American flags on same, but on Hamilton's going to them and letting them know that a force would be landed from the *Adams* if they did not desist, they knocked off.

Great excitement on account of a report that the Malietoa party are going to make a raid on Mulinuu at 5 o'clock this evening.

A letter is sent from the Malietoa people asking if there is any neutral territory to the three consuls; the British consul calls on the German, who says he respects no neutral territory.

September 5.—The German man-of-war *Adler* leaves for the westward with several native boats in tow, and a lot of armed natives: Brandeis having given the revolutionists notice in writing that the *Adler* was going to burn Manono.

Mataafa reported to be chosen as king of Samoa by the revolutionists, and the whole population, both Malietoa and Tamasese people, said to be well pleased.

Several white people go from town on horseback to Faleula to visit the revolutionary army and return in the evening. They report the natives in good spirits, and in large numbers, well armed, and strongly fortified. The *Adler* returns and one of her sailors reports the shelling of Manono and the attempt of the Tamasese boats to land, but they were driven back by the people on shore.

September 6.—Great quantities of pigs, chickens, and all kinds of native food coming in from Matafagatele and vicinity. The Tamasese people are cleaning everything out belonging to the other side who are in the bush.

A number of natives come in from the bush and sleep at Mulinuu to-night; they intend to try and get Seumanatafu away, who is at present closely watched.

The captain of *Adams* sends a protest to the captain of the *Adler*.

September 7.—Seumanatafu did not get away last night. All the natives on the point are anxious to leave and join the revolutionists. Only four chiefs left with Tamasese—Seumanatafu, Suatele, Too, and Mataia.

The captain of the *Adler* replies to the *Adams'* protest that he is acting under Becker's orders.

Aana people all leave Mulinuu and return home to consider whether they will remain neutral or join Malietoa.

Mataia and Too leave Mulinuu and go to Faleula with their people to-night.

September 8.—Yesterday the Tamasese people, who are living at Vaifele, killed all the pigs and chickens and burned two houses. This village only contains women and children left by Malietoa people who have gone to Faleula.

Suatele goes to Savaii to try and raise recruits for Tamasese.

Lanati also goes from Faleula to bring over the Malietoa people. They are expected to arrive on Monday.

A number of people, camped in Vailele and Matafagatele, cleared to-night and joined the Faleula party.

September 9.—Notice received from the Faleula Government that Mataafa has been made king with the name of Malietoa Tooa Mataafa.

Notices are sent to the three consuls, the French priest, and to Tamasese.

Yesterday Safu, a chief of Manono, was shot by his people for being a traitor.

A great many people from Apia go down to Faleula and visit the Malietoa people.

In the afternoon about six hundred of the Malietoa people come in towards Apia and pitch their camp at Vaimoso. They got word that the few Tamasese people left at Mulinuu were going to build a fort at Vaimoso, and they came in to prevent it.

September 10.—A letter in German just received from the German consulate.

Having had it translated, it states that the *Adler*, by request of the German consul, has landed troops near Mulinuu to protect German property and others on account of armed mobs being in the vicinity of Apia.

Captain Hamilton has just come in and reports the Tamasese people have pulled down four houses on his property and cut down his trees and committed all sorts of depredations on his property.

Another letter just received from Mataafa, addressed to the British consul and myself, inquiring about neutral territory.

[Inclosure 3 in No. 973.—Translation.]

Proclamation of Brandeis.

GOVERNMENT OF SAMOA,
Mulinuu, September 5, 1888.

To the chiefs and rulers of Tuamasaga, Manono, and le Faasaleleaga in the bush:

CHIEFS: By authority of His Majesty Tamasese, the King of Samoa, I make known unto you all that the German man-of-war is about to go, together with a Samoan fleet, for the purpose of burning Manono, on account of their secret actions. After this island Manono is all burnt, 'tis good, if the people return to Manono and live quiet. If they obey, then no other punishment will come upon them or added to above.

To the people of le Faasaleleaga I say return to your homes and stop there; the same to those belonging to Tuamasaga.

If you obey this instruction, then you will all be forgiven. If you do not obey, then all your villages will be burnt down the same as Manono.

These instructions were made or set forth in truth. In sight of God in the heaven.

Chiefs, I am,

[SEAL.]

BRANDEIS,
The chief leader of the Government.

[Inclosure 4 in No. 973.]

Commander Leary to Commander Fritze.

U. S. S. ADAMS,
Apia Harbor, Samoa, September 6, 1888.

SIR: I have the honor to inform you that information was received yesterday stating that the German war vessel (*Adler*) under your command would on that date proceed to the island of Manono with a Samoan fleet, and there burn the homes and villages of the Manono men who are now on this island (Upolu) in open revolt against Tamasese. It is reported that those homes were occupied by the defenseless wives and children of the aforesaid Manono men. The information further stated that after burning Manono the Faasaleleaga and the Tuamasaga would also be burned unless the men in revolt would surrender to Tamasese and return to their homes. It is a fact that yesterday morning an armed force of natives embarked in the corvette *Adler*, and the ship proceeded with the natives' boats in tow towards Manono, and later in the day the firing of heavy guns was reported in that direction, furnishing thereby presumptive evidence that the above-mentioned mission was about to be accomplished.

The present Samoan revolt is almost, if not quite, general, and the revolutionists had an armed force for warlike purposes in the field within a few hours' march of this harbor when the vessel under your command transported the Tamasese troops to a neighboring island, with the avowed intention of making war on the isolated homes of the women and children of the enemy.

Such action, especially after the Tamasese party having been represented as a strong government, not needing the armed support of a foreign power, appears to be a violation of the principles of international law, as well as a violation of the generally-recognized laws of humanity.

Being the only other representative of a naval power now present in this harbor, for the sake of humanity I hereby respectfully and solemnly protest in the name of the United States of America and of the civilized world in general against the use of a national war vessel for such service as was yesterday rendered by the German corvette *Adler*.

I am, etc.,

R. P. LEARY,
Commander, U. S. Navy, Commanding U. S. S. Adams.

[Inclosure 5 in No. 973.—Translation.]

Commander Fritze to Commander Leary.

APIA, *September* 7, 1888.

HONORABLE SIR: I have the honor to reply to your letter of yesterday that I am neither obliged to interfere with political affairs nor to inquire whether a requisition from the diplomatic representative of the German Empire directed to me is lawful or not.

This is the duty of the diplomatic representative.

In this case you would do well by kindly addressing Mr. Becker, German consul.

Very respectfully, etc.,

FRITZE,
Captain of Corvette and Commandant H. M. Kz. Adler.

[Inclosure 6 in No. 973.—Translation.]

Samoan Chiefs to Mr. Blacklock.

CAPITAL OF SAMOA, FALEULA,
September 9, 1888.

YOUR HIGHNESS: We wish to inform your highness that we have this day crowned Malietoa Mataafa as King of Samoa from Manua to Falealupo.

We crowned him on September 9, at 10 o'clock in the morning.

May your highness live.

We are,

TUMUA and PULE and AIGA.

[Inclosure 7 in No. 973.—Translation.]

Proclamation of Samoan Chiefs.

ATTENTION, ALL MEN.

We have crowned this day, the 9th of September, 1888, at 10 o'clock in the morning, Malietoa, To'oa Mataafa, as King of Samoa.

There were present TUMUA, and PULE, and AIGA.

We are,

TUMUA and PULE and AIGA.

Capital of Samoa at Faleula, September 9, 1888.

[Inclosure 8 in No. 973.—Translation.]

Mr. Becker to Mr. Blacklock.

GERMAN CONSULATE,
Apia, September 9, 1888.

I hereby notify the consulate of the United States that in consequence of the appearance of armed mobs in the vicinity of Apia I am compelled to ask the commander of the I. M. Krz. *Adler* to send a detachment of soldiers to Apia for the protection of German property and others.

Therefore has the said commander, with permission of Samoan Government, posted a guard on the boundaries of Sogi and Mulinuu.

The United States consulate I hereby notify to acquaint the American citizens with the above.

BECKER,
Imperial German Consul.

[Inclosure 9 in No. 973.]

Mr. Blacklock to Mr. Becker.

CONSULATE-GENERAL OF THE UNITED STATES,
Apia, Samoa, September 10, 1888.

SIR: Your notification of this morning's date with reference to armed mobs and the landing of troops from H. I. G. M.'s S. *Adler* received.

I am, etc.,

W. BLACKLOCK,
U. S. Vice-Consul-General.

[Inclosure 10 in No. 973.]

Mr. Blacklock to Commander Leary.

CONSULATE-GENERAL OF THE UNITED STATES,
Apia, Samoa, September 11, 1888.

SIR: Capt. E. L. Hamilton, an American citizen, has just reported to me that natives belonging to the Brandeis-Tamasese party have been committing depredations on his property, which is in charge of some Samoan families. They have pulled down and removed therefrom four Samoan-built houses, turning the people in charge out of doors; also cut down some banana trees (wanton destruction). Their attention was called to the fact that it was American property and the American flag was flying on same. The natives only laughed at this, and said they did not care for that.

I hope you will see your way clear to interfere in this matter and have these houses returned from where they were taken, for if this is allowed to pass there will be no end of insults to the American flag and depredation committed on American property. Even American lives will be in danger if this outrage is quietly winked at.

Awaiting your decision in the matter,

I have, etc.,

W. BLACKLOCK,
U. S. Vice-Consul-General.

[Inclosure 11 in No. 973.]

Commander Leary to Mr. Blacklock.

U. S. S. ADAMS,
Apia, Samoa, September 9, 1888. (Washington time.)

SIR: I have the honor to acknowledge the receipt of your communication of this date in reference to depredation committed upon the property of Capt. E. L. Hamilton, an American citizen, and to inform you that I have this afternoon visited the said locality in company with the owner, and caused the national flag, that had been taken down, to be replaced by the native chief in charge of the encampment. I also informed the said native chief that the houses removed from the American property must be returned and put in order for occupation by the families who were put out of them, and that I would allow him until 12 o'clock to-morrow (noon) to comply with my commands.

He promised that my orders should be complied with.

I am, etc.,

R. P. LEARY,
Commander, U. S. Navy.

[Inclosure 12 in No. 973.—Translation.]

King Mataafa to Messrs. Blacklock and Coetlogon.

CAPITAL OF SAMOA, VAIMOSO,
September 11, 1888.

GENTLEMEN: I write this letter to you two, very humbly and entreatingly, on account of this difficulty that has come before me.

I desire to know from you two gentlemen to-day the truth where the boundaries of the neutral territory are.

You will observe that I am now at Vaimoso, and I have stopped here till I know what you say regarding the neutral territory.

I wish to know where I can go and where the forbidden ground is, for I do not wish to go on any neutral territory or on any foreigner's property.

I do not want to offend any of the great powers.

Please excuse trouble and send me an answer to this question.

Another thing I want to inform you. Yesterday I sent a letter to the German consul, asking where the neutral territory was, but I have heard he did not get it. I suppose some scheming people got hold of it.

Now I wish to ask: Would you two gentlemen have a talk with the German consul about the neutral territory and let me know your decision?

Another thing I'd like. Would it be possible for you three consuls to make Tamasese remove from (Mulinuu) German property to some other place, for I am in awe of going onto German land.

I hope that you two gentlemen will receive this letter of mine kindly.

I am, etc.,

MALIITOA MATÀAFA,
King of Samoa.

[Inclosure 13 in No. 973.—Telegram.]

Mr. Blacklock to Mr. Bayard.

APIA, *September* 4, 1888.

Samoans at war. General revolt against Tamasese. Affairs more serious than ever.

BLACKLOCK.

[Inclosure 14 in No. 973.—Extract.]

Mr. Blacklock to Mr. Rives.

No. 151.] CONSULATE-GENERAL OF THE UNITED STATES,
Apia, Samoa, September 14, 1888. (Received October 8.)

SIR: The existing state of affairs here makes it necessary to have the U. S. S. *Adams* take supplementary dispatches to the mail-steamer. I have the honor to inclose herewith a record of current events since the regular mail left here on the 11th instant.

I inclose also a translation of a letter just received.

I have, etc.

W. BLACKLOCK,
U. S. Vice-Consul-General.

[Inclosure 15 in No. 973.]

Record of current events.

CONSULATE-GENERAL OF THE UNITED STATES,
Apia, Samoa, September 14, 1888.

September 11.—A report that the Malietoa party are advancing on Mulinuu and Matafagatele.

Capt. E. L. Hamilton called to-day to say that the natives had taken back the houses they removed from his land and replaced them where they took them from.

September 12.—Great excitement this morning. The Malietoa people, with Mataafa at their head, are marching towards Matautu and Matafagatele to attack the Tamasese forts which are there. An engagement is expected every minute.

The fight has opened. Things are lively. Immense excitement. The Malietoa people carrying everything before them. The Tamasese people take refuge under the German man-of-war *Adler's* quarter.

Captain Bissett, a British subject, master of the British schooner *Vindex*, killed on his way to the British consul's office. A good many coming in wounded.

A German sailor shot on board the *Adler* in the mouth while watching the fight. It is getting dark, but the fighting still continues. There is one more fort to be taken to-night. Two nearest Apia were taken early in the afternoon.

Fighting continues all night till 3 o'clock in the morning.

Everything taken by the Malietoa people. The enemy completely routed.

About 12 o'clock at night a great scare took place, a report that the people from Mulinuu and the black boys, laborers of the German firm, were on their way to attack the Apia natives in their houses. The state of affairs is dreadful, and from all accounts this is merely a commencement.

Before next mail goes the place may be all in ashes. The natives are desperate and will fight to the very last.

September 13.—The Malietoa people in possession of Apia this morning. Two villages, who were the principals in the fight yesterday, march through town triumphantly, but quietly and orderly. The Apia boys are all coming in and returning to their houses with Seumanatafu at their head, he having been taken again into their ranks. The German consul, captain of the *Adler*, and Brandeis met in Mulinuu on official business.

The *Adler* has moved into the small harbor close to Mulinuu Point.

The people of Vailele, Matafagatele, Vailoa, and other Malietoa villages along the beach return to their homes, such as they are now. The loss of life is quite small in proportion to the numbers engaged, I suppose not over forty on both sides, but a great number wounded. Numbers of English and Americans visit the battle-ground and are astonished at the strength of the fort, in some places 10 feet high, and the danger the white residents are placed in.

September 14.—Every thing apparently quiet this morning. I have just heard that the German consul wants to meet Mataafa to-day.

W. BLACKLOCK,
U. S. Vice-Consul-General.

[Inclosure 16 in No. 973.—Translation.]

Samoan Chiefs to Mr. Blacklock.

CAPITAL OF SAMOA, FALEULA,
September 9, 1888.

YOUR HIGHNESS: We, the chiefs and rulers of Samoa, respectfully beg to notify your highness that we have this day, with consent of the majority of the Samoan people, elected as a King Malietoa Tooa Mataafa.

Further, we wish to notify your highness that it is the desire of nearly all the Samoan people that Tamasese ceases to be king of Samoa and Brandeis to have no more connection with the Government and such connection ceases from this day.

After careful consideration we are determined to abide the action we have now taken to defend our rights to elect what King we, the united people of Samoa, may choose to rule over us.

We feel confident that peace and good order will be maintained in Samoa, and for our future guidance we wish to be allowed the privilege of selecting three gentlemen representing the three great nations having commercial interests in Samoa to advise us in our endeavors to rule impartially and justly.

May you live.

We are the Tumua, and Pule, and Aiga, and forty others.

No. 539.

Mr. Bayard to Mr. Phelps.

No. 999.] DEPARTMENT OF STATE,
Washington, November 23, 1888.

SIR: On the fifteenth ultimo Dr. Horacio Guzman, the minister of Nicaragua at this capital, in pursuance of instructions received from his Government, left at this Department a copy of a note addressed by Mr. J. P. H. Gastrell, the British minister in Central America, to the minister of foreign affairs of the Republic of Nicaragua, a copy of which I inclose herewith.

In this note Mr. Gastrell complains that the Government of Nicaragua "has established a post-office at Bluefields, thus intervening in the domestic affairs of the reservation;" that "troops and a police force have been stationed, and forts, arsenals, and military posts have been established, or are about to be established, by Nicaragua" within the Mosquito Reservation, and that the Nicaraguan commissioner residing in the reservation sustains these acts. He states that, in the opinion of Her Majesty's Government, the erection of forts, arsenals, or military posts, the establishment of post-offices by Nicaragua, or the exercise of military or police authority within the territory of the reservation can not be reconciled with the spirit of the treaty of Managua of 1860, as interpreted by the award of the Emperor of Austria. And he refers to certain questions touching the precise boundary of the reservation, as to which some dispute still exists.

Touching the inquiry in regard to the demarkation of the boundaries of the reservation, I have no observations to offer. The matter is one in which the Government of the United States feels at least an equal interest with that of Great Britain, inasmuch as a number of our citizens are now engaged in business within the reservation and by far the larger part of the foreign commerce of that region is at present carried on between the ports of Bluefields and New Orleans.

But with respect to the other subjects mentioned by Mr. Gastrell the case is different. The subjects involved are, as you know, of deep interest to the people of the United States, and have heretofore been the subject of prolonged and voluminous correspondence between this Government and that of Great Britain. It is not needful to recapitulate at this time the whole of the earnest and protracted discussion in which the questions relating to the Mosquito territory constitute an important part; but it will be conducive to a clear understanding of the President's views in regard to the particular points suggested by Mr. Gastrell's note if a statement of these views be prefaced with a brief historical review of the acts and declarations of the several powers concerned.

The Mosquito coast was a name bestowed in the last century upon a tract of country of considerable but imperfectly defined extent, stretching along the shores of the Caribbean Sea to the southward and westward of Cape Gracias à Dios, and was inhabited by a sparse population of wholly uncivilized Indians, between whom and the inhabitants of the British colony of Jamaica some relations are said to have early existed. The meaning and character of these relations have been the subject of elaborate and careful consideration in correspondence between my predecessors and the ministers of the United States in England and Central America, especially in a dispatch from Mr. Abbott Lawrence to Mr. Clayton, of April 19, 1850, and in numerous other documents

long since given to the world by the Governments both of the United States and of Great Britain. It is enough for my present purpose to point out that this Government has at all times maintained that the title to the whole of the Mosquito coast was, in the last century, vested in the Crown of Spain; that the native inhabitants were never more than a mere savage tribe, having at best only possessory rights in the region they occupied; that the sovereignty of Spain was distinctly recognized by Great Britain in the treaties concluded with the Spanish Government in 1783 and 1786; and that the rights of Spain became vested in her revolting colonies when they secured their independence.

These views were not accepted by the British Government, which insisted upon regarding the Mosquito Indians as an independent nation, entitled to full recognition as such. The chief of the tribe was described in the British correspondence as the Mosquito King, and Great Britain was designated as his protecting ally. Acting upon this view of the case, two British frigates, on January 1, 1848, took forcible possession of the town of San Juan del Norte—subsequently known as Greytown—which had a peculiar importance to the people of the United States as being situated at the Atlantic mouth of the projected Nicaragua interoceanic canal. For upward of twelve years the protectorate of Great Britain thus established continued.

These pretensions on the part of Great Britain excited marked interest and opposition in the United States, and, together with other circumstances, became the cause of the negotiation of the Clayton-Bulwer Treaty of April 19, 1850. By the terms of that instrument, as you will remember, the Governments of the United States and Great Britain agree that they will never "occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any state or people, for the purpose of * * * occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same."

Into the irritating controversies to which this treaty gave rise I do not desire to re-enter, but it is enough to point out that the continuance of the protectorate of Great Britain over the Mosquito territory was regarded throughout by the United States as being in conflict with the provisions of that agreement.

The arrangements to be entered into upon the cessation of this Mosquito protectorate were, however, the cause of considerable embarrassment to the British Government, as was frankly pointed out in two instructions addressed by Lord John Russell to Mr. Crampton, under date of January 19, 1853, from which I quote the following passages:

It is evident that since Great Britain first assumed the protection and defense of the Mosquito Indians the position of all parties has changed.

First. Spain, instead of exercising absolute sovereignty over Central America and prohibiting all commerce on the coasts under her sway, has entirely lost her dominion over the continent from Cape Horn to Florida.

Second. The Mosquito Indians, instead of governing their own tribe according to their own customs, furnish a name and a title to Europeans and Americans, who carry on trade at Greytown and along the coast of Mosquito according to the usages of civilized nations.

Third. Great Britain, instead of having an interest in the defense of the Mosquito Indians for the sake of rescuing part of the territory of Central America from Spanish control, and obtaining an outlet for her commerce, has no other interest in Mosquito than that which is derived from an honorable regard for her old connection with the Indian nation of Mosquito.

Her Majesty's Government has for several years endeavored to suit its engagements to the altered circumstances of the case.

The committee of government of Greytown are, in fact, the real power which exercises authority in that part of Central America. To Her Majesty's Government it would be a matter of indifference whether that authority was exercised in the name of the King of Mosquito or in the name of Greytown itself; but it is desirable that what is apparent should be made to conform, as far as possible, to what is real. What is apparent is, that the King of Mosquito exercises sovereignty over Greytown; what is real is, that he has no authority whatever, but that a committee of Europeans and Americans carry on the government at that port.

It is the object of Her Majesty's Government to make Mosquito a reality instead of a fiction, which it has hitherto been; and provided we save our honor and credit in our treatment of the King of that country, whose title and power are, in truth, little more than nominal, it is a matter of comparative indifference to us how this object is carried out, whether by constituting Greytown as the head and pivot of the new territorial establishment which we desire to see formed, or by any other liberal and practical arrangement which may be thought preferable, on discussing the matter with the United States.

Her Majesty's Government consider that so large and fertile a country as the extensive region denominated the Mosquito territory, a region extending from the River Roman on the north to the River San Juan de Nicaragua on the south, and whose western boundary is also of vast, though undefined extent, ought no longer to be allowed to lie waste, with thirty or forty thousand wandering Indians forming its only native population, and a few hundred foreigners of various races located, for the purposes of commerce, at different points along its extended line of sea-coast. Neither would it consist with our notions of expediency that such States as Nicaragua, Honduras, or even Costa Rica, should obtain possession of the Mosquito territory.

The plans of settlement thus suggested by Lord John Russell were not approved by the United States, and prolonged but fruitless negotiations were undertaken in the hope of arriving at an arrangment with respect not only to the Mosquito coast, but also to the British claims over certain islands off the coast of Honduras. Ultimately the Government of Great Britain sent Sir William Gore Ouseley as its representative to Central America, with the purpose of concluding separate agreements with the several countries interested. This mission was carried on and brought to a successful conclusion by Mr. Wyke.

It is interesting to observe that the plan adopted in regard to the mode of dealing with the Mosquito Indians seems to have been first suggested by General Cass in a conversation with Lord Napier, which is related as follows by the latter in a dispatch to Lord Clarendon of March 12, 1857:

General Cass then passed some reflections on the Clayton-Bulwer treaty; he had voted for it, and in doing so he believed that it abrogated all intervention on the part of England in the Central American territory. The British Government had put a different construction on the treaty, and he regretted the vote he had given in its favor. He did not, however, pretend that the British Government should now unconditionally abandon the Mosquitos, with whom they had relations of an ancient date; it was just and consistent with the practice of the United States that those Indians should be secured in the separate possession of lands, the sale of which should be prohibited, and in the enjoyment of rights and franchises, though in a condition of dependency and protection. The British Government had already removed one impediment to the execution of the Bulwer-Clayton treaty by the cession of their claims on Ruatan. Two difficulties now remained—the frontier of Belize and the delimitation and settlement of the Mosquito tribe. If the frontier could be defined, and if the Mosquitos could be placed in the enjoyment of their territory by treaty between Great Britain and Nicaragua, in which the concessions and guaranties of the latter in favor of the Indians should be associated with the recognition of the sovereignty of Nicaragua—so I understood the general—then the Bulwer-Clayton treaty might be a permanent and satisfactory settlement between the contracting parties. The United States desired nothing else than an absolute and entire neutrality and independence of the Central American region, free from the exercise of any exclusive influence or ascendancy whatever.

On January 28, 1860, a convention, sometimes known as the Zeledon-Wyke treaty, was signed at Managua by the representatives of Great

Britain and Nicaragua. By the terms of this treaty Her Britannic Majesty, subject to the conditions and engagements specified therein, agreed to recognize as belonging to and under the sovereignty of the Republic of Nicaragua, the country theretofore occupied or claimed by the Mosquito Indians within the frontier of that Republic. The British protectorate was to cease three months after the exchange of ratifications, in order to enable Her Majesty's Government to give the necessary instructions for carrying out the stipulations of the treaty. A district, now commonly known as the Mosquito Reservation, was to be assigned to the Indians, within which they were to enjoy certain rights of local autonomy. The Republic of Nicaragua was to pay to the Indians $5,000 a year for ten years. The port of Greytown, which was not included in the Mosquito Reservation, was to be constituted a free port. And certain grants of land, if made bona fide, in the name and by the authority of the Mosquito Indians, since January 1, 1848, lying outside the reservation, were to be confirmed.

Articles II, III, and VI of this treaty may be quoted in full as follows:

ART. 2. A district within the territory of the Republic of Nicaragua shall be assigned to the Mosquito Indians; which district shall remain, as above stipulated, under the sovereignty of the Republic of Nicaragua. Such district shall be comprised in a line which shall begin at the mouth of the River Rama, in the Caribbean Sea; thence it shall run up the mid-course of that river to its source, and from such source proceed in a line due west to the meridian of 84° 15′ longitude west from Greenwich; thence due north up the said meridian until it strikes the River Hueso, and down the mid-course of that river to its mouth in the sea, as laid down in Baily's map, at about latitude from 14° to 15° north and longitude 83° west from the meridian of Greenwich; and thence southerly along the shore of the Caribbean Sea to the mouth of the River Rama, the point of commencement. But the district thus assigned to the Mosquito Indians may not be ceded by them to any foreign person or state, but shall be and remain under the sovereignty of the Republic of Nicaragua.

ART. 3. The Mosquito Indians, within the district designated in the preceding article, shall enjoy the right of governing, according to their own customs and according to any regulations which may from time to time be adopted by them, not inconsistent with the sovereign rights of the Republic of Nicaragua, themselves and all persons residing within such district. Subject to the above-mentioned reserve, the Republic of Nicaragua agrees to respect and not to interfere with such customs and regulations so established or to be established within the said district.

ART. 6. Her Britannic Majesty engages to use her good offices with the chief of the Mosquito Indians, so that he shall accept the stipulations which are contained in this convention.

The conclusion of this arrangement was officially communicated to the Government of the United States, which, regarding it as a final withdrawal of British influence from the Mosquito country, expressed its satisfaction at a settlement that appeared to put an end to the disputes to which the Clayton-Bulwer treaty had given rise.

The treaty of Managua was at least as favorable to Great Britain as that Government had any right to expect. As pointed out by Mr. Fish in his instructions to General Schenck of April 26, 1873, this instrument "assigned boundaries to the Mosquito Reservation probably beyond the limits which any member of that tribe had ever seen, even when in chase of wild animals. Worst of all, however, it confirmed the grants of land previously made in the Mosquito territory. The similar stipulation on this subject in the Dallas-Clarendon treaty was, perhaps, the most objectionable of any, as it violated the cardinal rule of all European colonists in America, including Great Britain herself, that the aborigines had no title to the soil which they could confer upon individuals."

The Government of the United States had not, however, anticipated that under cover of this treaty the Government of Great Britain would

continue to attempt any interference with the affairs of the Mosquito Indians. It is superfluous to say that if it had been supposed by the United States that the treaty of Managua was understood by the Government of Great Britain to give that country a right of influence, direction, or control over the destinies of the Mosquito territory as against the State of Nicaragua, that convention, far from being hailed by this Government as a solution and termination of disputes concerning the British protectorate over the Mosquito Indians, would have been regarded as a serious obstacle to any such settlement. Under Article VI of the treaty of Managua, Her Britannic Majesty was bound to use her good offices with the chief of the Mosquito Indians, so that he should accept the stipulations of that convention; and it might have been naturally assumed that upon such acceptance by the Mosquito chief, Her Majesty's right to further interference was at an end.

That this Government was justified in so assuming, may amply be demonstrated not only by the consideration of the expressed design of the convention, but also by its particular provisions. Among these may be designated as of unequivocal significance, the fourth article of the treaty, by which it is provided that nothing in the treaty shall be construed to prevent the Mosquito Indians at any future time from agreeing to absolute incorporation into the Republic of Nicaragua on the same footing as other citizens of the Republic, and from subjecting themselves to be governed by the general laws and regulations of the Republic, instead of by their customs and regulations. This provision merely emphasizes the fact of the actual, substantial incorporation of the Mosquito Indians into the Republic of Nicaragua, and clearly contemplates the ultimate and absolute extinguishment of their semi-segregated existence.

It appears, however, that differences subsequently arose between the Governments of Great Britain and Nicaragua in relation to the free port of Greytown, the payment of the annuity to Mosquito Indians, and the precise extent of the rights of Nicaragua within the Indian reservation. By an exchange of diplomatic notes between the representatives of Great Britain and Nicaragua, it was agreed that all of these questions should be submitted to the arbitration of the Emperor of Austria; and he in the month of April, 1879, consented to act as arbitrator upon the differences of opinion which had arisen "as to the true interpretation of the treaty of Managua of 1860."

To this agreement of arbitration the Government of the United States was not a party, and it is not bound by the award of the arbitrator, nor committed in any way to an admission of the right of Great Britain to interfere in disputes between the Republic of Nicaragua and the Indians living within her borders.

The decision of the Emperor was announced in July, 1881, and the first six articles of the award, which deal with the rights of Nicaragua within the Mosquito Reservation, are as follows:

ARTICLE 1. The sovereignty of the Republic of Nicaragua, which was recognized by Articles 1 and 2 of the treaty of Managua, of the 28th January, 1860, is not full and unlimited with regard to the territory assigned to the Mosquito Indians, but is limited by the self-government conceded to the Mosquito Indians in Article 3 of this Treaty.

ART. 2. The Republic of Nicaragua, as a mark of its sovereignty, is entitled to hoist the flag of the Republic throughout the territory assigned to the Mosquito Indians.

ART. 3. The Republic of Nicaragua is entitled to appoint a commissioner for the protection of its sovereign rights throughout the territory assigned to the Mosquito Indians.

ART. 4. The Mosquito Indians are also to be allowed to hoist their flag hencefor-

ward, but they must at the same time attach to it some emblem of the sovereignty of the Republic of Nicaragua.

ART. 5 The Republic of Nicaragua is not entitled to grant concessions for the acquisition of natural products in the territory assigned to the Mosquito Indians. That right belongs to the Mosquito Government.

ART. 6. The Republic of Nicaragua is not entitled to regulate the trade of the Mosquito Indians, or to levy duties on goods imported into or exported from the territory reserved to the Mosquito Indians. That right belongs to the Mosquito Indians.

This award, as it will be perceived, does not by any means go to the lengths to which the British Government now seeks to proceed, under the recent note of Mr. Gastrell to the Nicaraguan authorities. The award declares that the Republic of Nicaragua may hoist its flag throughout the reservation, and may appoint a commissioner for the protection of its sovereign rights; but that it may not grant concessions for the acquisition of natural products within the territory, may not regulate the trade of the Indians, and may not levy import or export dues in the reservation. Beyond this no limitation is declared upon the sovereign rights of Nicaragua, nor is the extent of its sovereignty further defined.

Without entering now into the consideration of the correctness of this award, it may be pointed out that neither in it, nor in Article III of the treaty of Managua, which provided that the Indians were to enjoy the right of governing, according to their own customs, and according to any regulations which may from time to time be adopted by them not inconsistent with the sovereign rights of the Republic of Nicaragua, themselves and all persons residing within such district, is there anything incompatible with the right of Nicaragua to establish post offices, and still more with the right to establish military posts for the common defense. Such a right is an essential incident of paramount sovereignty, and can properly be exercised by no other agency. The award refers to the right of the Republic of Nicaragua as a mark of its sovereignty to hoist the flag of the Republic throughout the territory assigned to the Mosquito Indians. That such is the case does not appear to admit of doubt. Yet it seems idle to speak of a government having the right to hoist a flag as the emblem of a sovereignty which it is not to be permitted to defend.

The analogy of the relations of the Federal Government of the United States to the several States and to the Indian tribes within its borders seems clear and applicable. To establish post-offices, to raise and support armies, to provide and maintain a navy, to exercise exclusive legislation over all places purchased for the erection of forts, magazines, arsenals, and dock-yards, and to provide for the common defense and general welfare of the United States, are powers expressly vested by our Constitution in the Federal Congress; and it is obvious that wherever there is a central government these powers, or something like these, must be vested in it, whatever degree of autonomy in other respects may be accorded to local administrations.

It is, of course, well known that in some cases dependent autonomous communities have the privilege of exercising some of the rights above mentioned; but this is due usually either to the circumstance of great distance from the central authority, as in the case of the British colonies in Australia, or to special and precise stipulations. In a case where the inhabitants of a district are simply to enjoy a right of local self-government, "but shall be and remain under the sovereignty of" the power within whose borders their district lies, there can be no room for implication granting to such inhabitants extraordinary privileges which do not properly pertain to the regulation of strictly local affairs.

To the United States, in common with all other powers, it is important that Nicaraguan sovereignty should exist in fact as well as in name within the Mosquito reservation. With the sovereign alone can we maintain diplomatic relations, and we have a right to look to that sovereign for redress in the event of wrongs being inflicted upon any of our citizens. If the Republic of Nicaragua is to be limited to the mere formal right of hoisting a flag and maintaining a commissioner within the reservation, how can it be called upon to perform any of its international obligations?

Nor is it consistent with the general views and policy of the United States to look with favor upon the establishment of such an *imperium in imperio* in Central America. General Cass, in a note addressed to Lord Napier on May 29, 1857, in discussing the draught of a proposed treaty relative to the Bay Islands off the coast of Honduras, alluded in the following language to certain clauses which, by their express terms, were remarkably similar to the interpretation now sought to be put by the British Government on the treaty of Managua. He wrote:

> That provision, whilst declaring the Bay Islands to be "a free territory under the sovereignty of the Republic of Honduras," deprived that country of rights without which its sovereignty over them could scarcely be said to exist. It separated them from the remainder of Honduras and gave them a government of their own, with their own legislative, executive, and judicial officers, elected by themselves. *It deprived the Government of Honduras of the taxing power in every form, and exempted the people of the Bay Islands from the performance of military duty, except for their own defense, and it prohibited the Republic from providing for the protection of these islands by the construction of any fortifications whatsoever*, leaving them open to invasion from any quarter. Had Honduras ratified this treaty, she would have ratified the establishment of an "independent" state within her own limits, and a state at all times liable to foreign influence and control.

And these objections Mr. Cass thought were so serious as to make it impossible for the President to sanction such an arrangement.

But even more important than a determination of the precise extent of the Nicaraguan authority within the Mosquito reservation is the general question of the right of Her Britannic Majesty to intervene in disputes between the Republic of Nicaragua and the Indians or other inhabitants of that district.

The question was presented by the Nicaraguan representatives to the Emperor of Austria, but his award is silent upon the point. It is, however, discussed in the opinion or report upon which the award is based, and in the following terms:

> In regard, however, to the affairs of the Mosquito Indians, it is true that England, in the treaty of Managua, has acknowledged the sovereignty of Nicaragua and renounced the protectorate, but this still only on condition, set forth in the treaty, of certain political and pecuniary advantages for the Mosquitos ("subject to the conditions and engagements specified in the treaty, Article I"). England has an interest of its own in the fulfillment of these conditions stipulated in favor of those who were formerly under its protection, and therefore also a right of its own to insist upon the fulfillment of those promises as well as of all other clauses of the treaty. The Government of Nicaragua is wrong in calling this an inadmissible "intervention," inasmuch as pressing for the fulfillment of engagements undertaken by treaty on the part of a foreign state is not to be classified as intermeddling with the internal affairs of that state, which intermeddling has unquestionably been prohibited under penalty. No less unjustly does the Government of Nicaragua seek to qualify this insistence on treaty claims as a continued exercise of the relinquished protectorate, and on that ground wish to declare England's interposition inadmissible.

From this view of the case I find myself compelled to dissent. It can not be admitted that Great Britain has a right to intervene in every dispute that may arise between the Mosquito Indians and their sovereign. And if Great Britain can not intervene in every case, how are the cases of admissible intervention to be defined? Certainly the vague language

of the treaty of Managua can afford no criterion, for in every case of dispute it may be argued that the rights of self-government on the one hand, or of sovereignty on the other, are invaded.

The case is not without analogies. In the treaty with France of April 30, 1803, for the cession of Louisiana it is provided that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion they profess." In the treaty with Spain of February 22, 1819, for the cession of Florida, it was stipulated that "the inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction," and that they should be "admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States." By the terms of the treaty with Russia of March 30, 1867, for the cession of Alaska, the inhabitants, with the exception of uncivilized native tribes, are to be admitted to citizenship, "and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country." In all these cases, as will be observed, the ceding Government has received assurances of the treatment to be accorded to the inhabitants of the ceded territory; but in no case in our diplomatic history has any one of these Governments asserted a right to intervene in our domestic affairs. Difficulties have at times arisen between the Federal Government and the inhabitants of Louisiana and Florida, but neither France nor Spain ever pretended that our treaty stipulations gave them a right to take part in the settlement of such disputes. The laws affecting the Territory of Alaska may be, and in some respects now are, unlike those governing the other Territories of the United States. But it must be apparent that were the Indians inhabiting those possessions to protest against alleged discriminations to the Czar of Russia, the treaty of 1867 would not authorize His Imperial Majesty to demand of the United States a different treatment of our Indian wards; and that such interposition, if made, would certainly not be regarded favorably by this Government.

The ceding government in such cases retains, and can retain, no right of control or supervision over the conduct of the guardian to whom it commits the inhabitants whose allegiance is changed.

And so in the case under consideration. The stipulations of the treaty of Managua relative to the privileges to be accorded to the Mosquito Indians were not for the benefit of Great Britain, and are not enforceable by her. They were solely made for the benefit of those Indians, who were regarded by the express language of the treaty as at liberty to accept or reject its stipulations. Through their chief they did deliberately accept them, and on the withdrawal of British protection placed themselves under the sovereign power of the Republic of Nicaragua, and agreed to accept her public pledges as a sufficient guaranty that the agreements therein contained touching their right of self-government would be carried out in good faith.

The President can not but regard the continued exercise of the claim on the part of Great Britain to interfere on behalf of these Indians as the assertion of a British protectorate in another form; more especially when this effort is directed to prohibiting Nicaragua from exercising

military jurisdiction in the immediate neighborhood of the Atlantic mouth of the projected canal.

The United States can never see with indifference the re establishment of such a protectorate. Not only would the extension of European influence upon this continent be contrary to the traditional and frequently expressed policy of the United States, but the course of Great Britain in assuming or exercising any dominion over the Mosquito coast, or making use of any protection it may afford or any alliance it may have to or with any people for the purpose of assuming or exercising any dominion over that territory, would be in violation of the express stipulations of the Clayton-Bulwer treaty, whose binding force Great Britain has up to the present time so emphatically asserted.

It is not needful in this communication to consider the temporary or perpetual existence of the various provisions of that treaty. My immediate predecessors have with great fullness expressed their views upon that head, and I do not now comment upon them. But it is proper to refer to these conventional engagements of Great Britain, as exhibiting the measure of her admitted obligations.

Whether the interference of the British Government be regarded as a breach of existing treaty engagements, or whether it be looked upon simply as an effort, not prohibited by express agreement, to extend her influence in this continent—in either case the Government of the United States can not look upon such acts without concern. The circumstances of the particular locality render the subject one of peculiar interest and importance to the people of this country, and I should be wanting in my duty to them should I fail to bring the matter directly and frankly, and in a spirit of sincere friendship, to the notice of Her Majesty's Government.

The history of the former controversies in regard to the same subject should admonish those who are charged with the conduct of the affairs of the two countries to spare no effort to avoid misunderstandings and promote cordial co-operation and good intelligence between them. With this purpose in view, and animated by the strongest desire to escape possible future causes of difference, I address you these instructions.

You will read this dispatch to the Marquis of Salisbury, and, should he desire it, you may furnish him with a copy.

I am, etc., T. F. BAYARD.

[Inclosure in No. 999.]

Mr. Gastrell to Señor Zavala.

BRITISH LEGATION IN CENTRAL AMERICA,
Guatemala, September 10, 1888.

MONSIEUR LE MINISTRE: I have the honor to state to your excellency that information has reached Her Majesty's Government to the effect that certain proceedings of the authorities of your excellency's Government in connection with the Mosquito reservation would not seem to be in accordance with the provisions and spirit of the treaty of Managua, under which the Republic of Nicaragua became the over sovereign of that territory.

It is alleged that in defining the limits of the new district of Siquia an encroachment upon the territory of the Mosquito reserve has taken place; that a Nicaraguan post-office has been established at Bluefields, thus interfering with the internal affairs of the Reserve, contrary to the treaty; and that Nicaraguan troops and police have been stationed, and Nicaraguan forts and arsenals or military stations are being established, or about to be established, east of longitude 84° 15′; the presence of the former and the creation of the latter being directly contrary to that treaty. And it further appears that the commissioner of your excellency's Government at Bluefields defends these proceedings.

I am therefore instructed by the Marquis of Salisbury to, through your excellency, draw the attention of the Nicaraguan Government to the wording of the treaty and to the interpretation given to it by the award of the Emperor of Austria.

The treaty lays down that the district of the reservation "shall be comprised in a line which shall begin at the mouth of the river Rama in the Caribbean Sea; thence it shall run up the mid-course of that river to its source, and from such source proceed in a line due west to the meridian of 84° 15′ longitude west from Greenwich; thence due north up the said meridian until it strikes the river Hueso, and down the mid-course of the river to its mouth in the sea, as laid down in Baily's map, at about latitude from 14° to 15° north and longitude 83° west from the meridian of Greenwich; and thence southerly along the shore of the Caribbean Sea to the mouth of the river Rama, the point of commencement."

It now appears, according to a statement of the Nicaraguan commissioner, that the map referred to in the treaty, but not annexed to it as believed by him, is incorrect in respect to the length of the course of the river Rama and that that river's source is west and not east of the meridian of 84° 15′ longitude west from Greenwich. If this is the case it can not be contended on behalf of the Mosquito Indians that the western limit of their territory should extend beyond that meridian, but the river to the east of that meridian is, undoubtedly, the southern boundary of the reserve, and there never has been, hitherto, any question of any other southern limit. It is named in the treaty and it is distinctly marked in Baily's map, whereas no such river as the "Siquia," which has been referred to by the Nicaraguan commissioner, appears on that map.

As regards the point whether or not the confluence of the other river, Rama, with the Siquia to form the Bluefields River (in Baily's map apparently the Escondido River), is to the east or west of the western frontier of the reservation, that is of the, meridian of 84° 15′, Her Majesty's Government have not sufficient information; but Lord Salisbury would be glad to know what are the astronomical observations of Mr. Climie, on which the Government of Nicaragua relies.

I am also instructed by the Marquis of Salisbury to point out to your excellency, for the information of the Government of Nicaragua, that in the opinion of Her Majesty's Government the erection of forts, arsenals, or military posts, the establishment of Nicaraguan post-offices, or the exercise of military or police authority by Nicaragua within the territory of the reservation would be inconsistent with the spirit of the treaty, as interpreted by the arbitrator's award, the first article of which says that—"The sovereignty of Nicaragua is not full and unlimited with regard to the territory assigned to the Mosquito Indians, but is limited by the self-government conceded to the Mosquito Indians by the treaty of Managua."

I avail myself of this opportunity to renew to your excellency the assurances of my highest consideration.

J. P. H. GASTRELL.

CORRESPONDENCE WITH THE LEGATION OF GREAT BRITAIN AT WASHINGTON.

No. 540.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *September* 14, 1887.
(Received September 14, 1887.)

SIR: I have the honor to inclose to you herewith a memorandum calling the attention of the United States Government to certain points in the report made by Lieutenant Schwatka, of the U. S. Army, of a reconnaissance made by him in Alaska, and to observe at the same time that he traversed British territory for a considerable distance without any intimation having been given to the British authorities of his intention of so doing. I may add, however, that Her Majesty's Government do not attach any importance to this fact, and that no doubt had their acquiescence been asked it would not have been refused.

I have the honor, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Memorandum on Lieutenant Schwatka's report.

In the wording of the resolution* adopted by the United States Senate on the 18th of April, 1884, the reconnaissance of Lieutenant Schwatka is described as extending from Chilkoot Inlet, Alaska, to Fort Selkirk, on Yukon River, Alaska. But, as is shown in sheet 5 attached to Lieutenant Schwatka's report, part 2 of the map of the routes followed by him extends from Fort Selkirk, *B. C.* (standing for British Columbia); and at page 33 of his report the latitude and longitude of Fort Selkirk is given as 62° 45′ 30″ north and 137° 22′ 45″ west, which is well within the territory belonging to Great Britain, which extends as far as 141° west.

It will also be seen on referring to pages 20 and 47 of the report that Lieutenant Schwatka has indicated two points, viz, Perrier Pass and 141° west longitude, which he has determined as defining the international boundary.

Although Her Majesty's Government have agreed in principle to take part in a preliminary investigation of the Alaska boundary question, they are not prepared to admit that the points referred to by Lieutenant Schwatka in any way fix where the line should be drawn.

It is not sought to raise any discussion at the present moment in regard to the position of the boundary between Alaska and British Columbia, but, in order that it may not be prejudiced hereafter by absence of remark on the points alluded to above, Her Majesty's Government have thought it expedient to call the attention of the United States Government to the foregoing observations.

No. 541.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *September* 21, 1887. (Received September 22.)

SIR: With reference to your note of the 22d of June last I have the honor to inclose herewith copy of an approved minute of the privy council of Canada, embodying a report of the minister of marine and fisheries, dealing with the statement of Messrs. S. H. Davis & Co. relative to the seizure of their property by Dominion officials.

I have the honor, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council on the 9th September, 1887.

The committee of the privy council have had under consideration a dispatch, dated June 23, 1887, from Her Majesty's minister at Washington transmitting a statement of Messrs. S. H. Davis & Co., of Detroit, Mich., relative to the seizure of their property by Canadian officials in Canadian territory, and requesting that inquiry be made into the matter.

The minister of marine and fisheries, to whom the matter was referred, reports the circumstances under which the seizures complained of were made, as follows:

It having come to the knowledge of the officers of the fisheries department in June last that a large number of nets were being illegally set in the Georgian Bay by two fishermen named, respectively, McLean and Lincoln (the former a British and the latter an American subject) an official was sent to ascertain the facts. Upon his arrival it was found that fishing was being carried on in a most extensive manner, and

* *Resolved*, That the Secretary of War be, and he is hereby, directed to transmit to the Senate the official report by Lieut. Frederick Schwatka, U. S. Army, of his military reconnaissance of 1883, from Chilkoot Inlet, Alaska, to Fort Selkirk, on Yukon River, Alaska.

that neither of the parties engaged therein had a license from the department of marine and fisheries.

The minister states that although interim receipts appear to have been issued by Fishery Overseer James, purporting to cover the cost of a license for six boats, very conflicting statements are made as to the conditions under which these receipts were given by the overseer.

This phase of the case is, however, unimportant, as upon inspection of the nets in use, and in which the seized fish were taken, it was ascertained that the mesh in every net was of illegal size; neither is the fact essential, though a reference thereto should not be omitted, as throwing some light on the extent of the illegal proceedings, resulting in the seizure of the fish purchased by the Messrs. Davis, that nearly 70 miles or over 122,000 yards of these illegal nets were in use, being at least 87,000 yards in excess of the quantity the six boats would have been entitled to use under a license from the department of fisheries.

The minister observes that subsection 3 of section 10, cap. 95 of the Revised Statutes of Canada provides as follows:

"Gill-nets for catching salmon trout or white fish shall have meshes of at least 5 inches, extension measure." Subsection 3 of section 18 of the act referred to further provides that "all materials, implements, or appliances used, and all fish taken or killed in violation of this act or any regulation under it, shall be confiscated to Her Majesty, and may be seized and confiscated on view by any fishery officer, or taken and removed by any person for delivery to any justice of the peace, and the proceeds arising from the disposal thereof may be applied towards defraying expenses under this act."

The claim therefore of Messrs. Davis & Co. that the fish, having been bought and paid for by them, should not have been seized, is clearly untenable.

The minister remarks that if it be admitted that fish illegally caught, but disposed of to a second party, are exempt from seizure, the law would become inoperative and incapable of effectual enforcement. In this case Messrs. Davis & Co.'s complaint should be directed against the parties who sold them the fish which had been illegally caught and not against the department of fisheries, which simply enforced the laws of the country in the interest of one of its industries deserving the most careful protection.

The minister further observes that the question of citizenship was not raised or considered by his officers in this matter, nor has any prejudice existed against Messrs. Davis & Co. on account of their nationality.

The law has been enforced altogether irrespective of any considerations as to the individuals interested. Citizens of the United States trading in Canada have a well-defined status, with perfect freedom to transact business in all legal commodities, of which legally-caught fish is one, and the minister is not aware, in the action under consideration, of having permitted in the least degree any infringement of that status.

The minister deems it unnecessary to refer to the alleged threat of seizure on the part of Canadian officers of the steamer *Remora*, as no such seizure was made, and if the vessel was, as it is presumed she was, legally within her right in being at French River for the purpose of taking on board the fish, no improper detention would have been permitted.

The fish cars to which Messrs. Davis & Co.'s claim refers, being no part of the apparatus used in taking the confiscated fish, the officer of the fisheries department at Victoria Harbor was instructed on the 9th of July last to return them to the agent of the Messrs. Davis, at French River.

The committee concurring in the report of the ministry of marine and fisheries advise that your excellency be moved to transmit a copy of this minute to Her Majesty's minister at Washington.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

No. 542.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, November 17, 1887.

SIR: I have the honor to inclose herewith a copy of a report made by the consul of the United States at Kingston, Ontario, to this Department, in response to its inquiries in relation to the fees charged on vessels of the United States in the ports of Ontario, Dominion of Canada.

By a proclamation bearing date the 31st of January, 1885, the President, upon information that no duty was imposed as tonnage-tax or as light-house money, and that no other equivalent tax or taxes were imposed on vessels of the United States in the ports of Ontario, suspended, under section 14 of the act of June 26, 1884, the collection of the tonnage-tax of 3 cents per ton therein imposed on vessels coming from these ports.

By the report above referred to it appears that there is imposed on vessels of the United States in the port of Kingston a fee of 50 cents for entrance and of the same amount for clearance on vessels of less than 50 tons burden and of $1 for each of the same purposes on vessels of 50 tons burden or over. Canadian vessels having taken out a coasting license, which costs nothing, are, even if coming from or bound to ports in the United States, stated to be exempt from these taxes, which thus appear to constitute a discriminating duty upon vessels of the United States in the port of Kingston, and unless removed to require some modification of the proclamation of the 31st of January, 1885.

But before taking any step in this direction, it is desired to bring the matter to the attention of the proper authorities, with a view to ascertaining whether the discriminating duty may not be removed.

I have, etc.,

T. F. BAYARD.

[Inclosure.]

Mr. Twitchell to Mr. Porter.

UNITED STATES CONSULATE,
Kingston, Canada, October 29, 1887.

SIR: I have the honor to report to the Department of State that all licensed Canadian vessels are exempt at the port of Kingston from entrance and clearance fees or any other fee equivalent to or in place of clearance and entrance fees; it makes no difference whether the vessel is from or clearing for a United States port or not.

To the best of my information all Canadian vessels take out the coasting license, which costs them nothing. American vessels can not take out a coasting license; if under 50 tons burden she must pay 50 cents for entrance and 50 cents for clearance, if over 50 tons burden she must pay $1 for entrance and $1 for clearance at the port of Kingston.

M. H. TWITCHELL,
Consul.

No. 543.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *November* 29, 1887. (Received November 30.)

SIR: With reference to your note of the 12th instant I have the honor to inform you that the Marquis of Salisbury has requested me to ask you whether any member of the staff of the United States legation in London could properly attend the sugar conference.

I may add that the chargés d'affaires of France and Italy will attend, and that the conference will not conclude its labors for some time to come.

I have, etc.,

L. S. SACKVILLE WEST.

No. 544.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, December 2, 1887.

SIR: I have the honor to acknowledge the receipt of your note of the 29th ultimo, in which you inform me that the Marquis of Salisbury has requested you to inquire whether any member of the staff of the American legation in London could properly attend the sugar conference now in session in London.

In reply I take pleasure in informing you that, upon consideration of the subject, no objection is seen to authorizing a suitable person to attend the sittings of the sugar conference, in a friendly way, as the representative of this Government, to listen to its proceedings and report the same, but without committing the United States to participation in its deliberations or conclusions.

Mr. Phelps will accordingly be instructed to allow Mr. White, the first secretary of the American legation, to attend the conference in question, with the understanding above indicated.

I am, etc.,

T. F. BAYARD.

No. 545.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *December* 6, 1887. (Received December 7.)

SIR: With reference to your note of the 17th of August, 1886,* I have the honor to inclose to you herewith copy of a report of the privy council for Canada, as well as copy of a letter from the officer in command of the Canadian schooner *F. E. Conrad* to the deputy minister of fisheries, relative to the accusation that he had forbidden the master of the United States schooner *Golden Hind* to enter the Baie des Chaleurs for the purpose of renewing his supply of fresh water.

In communicating to you these documents I am requested by the Marquis of Salisbury to express to you his regret that the United States Government should have remained so long without a reply to their representation in this case.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

Report of a committee of the privy council of Canada, approved October 27, 1887.

The committee of the privy council for Canada have had under consideration a dispatch, dated the 9th of September, 1886, from the right honorable the secretary of state for the colonies, transmitting a copy of a communication from the foreign office, together with a note from Mr. Secretary Bayard, protesting against the action of the commander of the Canadian cruiser *F. E. Conrad* in forbidding the master of the United States fishing schooner *Golden Hind* to enter the Baie des Chaleurs for the purpose of renewing his supply of fresh water.

*Printed Foreign Relations, 1886, p. 410.

The minister of marine and fisheries, to whom the dispatch and inclosure were referred, submits herewith Captain Smeltzer's statement of what occurred on the day the schooner *Golden Hind* is stated to have been at Baie des Chaleurs.

The minister observes that Captain Smeltzer denies that the master of the *Golden Hind* mentioned any desire to enter the bay for water, but that he asked for a copy of the "warning," which had been issued by the fisheries department to the masters of United States fishing vessels, which was given him. This "warning" states distinctly the purposes for which United States fishing vessels can enter Canadian ports.

The minister further observes that there are no grounds to substantiate the charge of a violation of the treaty and the common rights of hospitality, to which Mr. Bayard gives expression.

[Inclosure 2.]

Mr. M. Smeltzer to the deputy minister of fisheries, Ottawa.

GOVERNMENT SCHOONER F. E. CONRAD,
Souris, Prince Edward Island, October 5, 1886.

SIR: I am this day in receipt of your letter, dated 27th of September, concerning a complaint made by Reuben Cameron, master of the American fishing schooner *Golden Hind*, of Gloucester. In reply, referring to my boarding books, I find I boarded the said vessel on the 22d July, 1886, near the entrance to the Baie des Chaleurs. On boarding him I asked for his report, etc., which he gave me. I then told him my orders were not to allow any American fisherman to enter the bay, and warned him not to do so. He then asked me if I had any printed "warnings" to give him; I told him I had. He then sent his boat to my vessel for the same. I gave him one, and to impress my orders on his mind, I wrote on the back, "Don't enter the Baie des Chaleurs." He did not say he wanted water, nor did he say he wanted to go into Port Daniel. He merely asked me about the headlands of the bay. The foregoing particulars are exactly what occurred with reference to my boarding the said schooner *Golden Hind*.

I am, etc.,

M. SMELTZER,
In command of Schooner F. E. Conrad.

No. 546.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *December* 19, 1887. (Received December 20.)

SIR: I have the honor to inclose to you herewith copy of a letter which I have received from the clerk of the Darlington Poor-Law Union, requesting the consent of the United States Government, under the circumstances therein mentioned, to the immigration of the family of one Anthony Gallagher, resident at Natrona, Allegheny County, Pa., and I trust that you will see fit to recommend this request to the favorable consideration of the competent authorities.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Mr. Hodgson to Sir L. S. Sackville West.

DARLINGTON POOR-LAW UNION,
December 6, 1887.

SIR: I am directed by the guardians of this union to inform you that they have applied to the local government board for their consent to the guardians assisting Bridget Gallagher, aged forty-one; Mary Gallagher, aged thirteen; Catherine Gal-

lagher, aged eleven; Agnes Gallagher, aged nine; Joseph Gallagher, aged seven; Antony Gallagher, aged five; Julia Gallagher, aged three, and James Gallagher, aged two, to Natrona, Allegheny County, Pa., where the husband of the said Bridget Gallagher and the father of the others above named resides. The board replied that they would sanction the proposal providing the consent of the United States Government was obtained. The guardians thereupon communicated with the United States minister in London, and were referred by him to your excellency.

Anthony Gallagher, the husband of the said Bridget Gallagher, is very anxious that this family should join him, and he is well able to maintain them on arrival. The said Anthony Gallagher has sent £10 towards the cost of his family's emigration, but that sum is insufficient, and unless the guardians are empowered to assist Mrs. Gallagher it will be some considerable time before they can be sent out.

The guardians therefore respectfully request that you will endeavor to obtain the consent of the United States Government to their proposal.

I have, etc.,

W. HODGSON.

No. 547.

Memorandum handed to Mr. Bayard by Sir L. S. Sackville West.

WASHINGTON, *December* 23, 1887.

England and France by the convention of November 28, 1843, are bound to consider the Sandwich Islands as an independent state and never to take possession, either directly or under the title of a protectorate or any other form, of any part of the territory of which they are composed.

The best way to secure this object would, in the opinion of Her Majesty's Government, be that the powers chiefly interested in the trade of the Pacific should join in making a formal declaration similar to that of 1843 above alluded to, and that the United States Government should, with England and Germany, guaranty the neutrality and equal accessibility of the islands and their harbors to the ships of all nations without preference.

No. 548.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, January 7, 1888.

SIR: With reference to your note of the 6th ultimo, relative to the application of the Darlington Poor Law Union for the immigration into this country of the family of Mr. Anthony Gallagher, I have to inform you that the Secretary of the Treasury has informed this Department that the question whether an emigrant is entitled to land under the provisions of the immigrant laws of this country depends upon facts presented to the collector of customs at the time the attempt to land is made, and that the right of an emigrant to land can not be determined in advance of his or her actual arrival in this country.

I have, etc.,

T. F. BAYARD.

No. 549.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *January* 14, 1888. (Received January 17.)

SIR: In compliance with the instructions which I have received from the Marquis of Salisbury, I have the honor to transmit to you herewith copies* of the *procès-verbaux* of the conference on the question of sugar bounties which met in London between the 24th of November and the 19th of December and to express to you at the same time the cordial thanks of Her Majesty's Government for the attendance of Mr. White, first secretary of the United States legation in London, at the conference.

I am further requested to express the earnest hope of Her Majesty's Government that the United States will be represented officially at the next meeting of the conference, which is fixed for the 8th of April, 1888, and that they will become a party to the convention for the abolition of sugar bounties, which it is hoped will be signed at the close of the ensuing session of the conference.

I have, etc.,

L. S. SACKVILLE WEST.

No. 550.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *February* 2, 1888. (Received February 6.)

SIR: With reference to your note of the 17th of November last, transmitting copy of a report made by the United States consul at Kingston, Ontario, in relation to certain fees charged on vessels of the United States in the ports of Ontario, I have the honor to inclose to you herewith copy of an approved minute of the privy council of Canada, embodying a report of the minister of customs upon the subject.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council on the 12th January, 1888.

The committee of the privy council have had under consideration a dispatch, dated 19th November, 1887, from Sir Lionel Sackville S. West, British minister at Washington, inclosing copy of a dispatch from the Hon. T. F. Bayard, Secretary of State of the United States, bearing date 17th November, 1887, in which he called the attention of the Canadian government to a proclamation issued by the President of the United States, bearing date the 31st January, 1885, in which it is stated that the President, "upon information that no duty was imposed as tonnage tax or as light-house money, and that no other equivalent tax or taxes were imposed on vessels of the United States in the ports of Ontario, suspended, under section 14 of the act of June 26, 1884, the collection of the tonnage tax of three cents per ton therein imposed on vessels coming from those ports;" such dispatch further reciting that it appeared from a report received at Washington from the United States consul at Kingston Ontario, "that there is imposed on vessels of the United States in the port of Kingston a fee of 50 cents for entrance and of the same amount for clearance, on vessels of less than 50 tons

* Not printed herewith.

burden, and of $1 for each of the same purposes on vessels of 50 tons burden or over, and that Canadian vessels having taken out a coasting license, which costs nothing, are, even if coming from or bound to ports in the United States, stated to be exempt from these taxes, which thus appear to constitute a discriminating duty upon vessels of the United States in the port of Kingston."

The minister of customs, to whom the matter was referred, reports as follows:

The statement that "there is imposed on vessels of the United States a fee of 50 cents for entrance and the same amount for clearance on vessels of less than 50 tons burden, and of a dollar for each of the same purposes on vessels of 50 tons burden or over," is correct as far as it relates to the ports above Montreal; and such fees are imposed under section 234 of the act 46 Vic., cap. 12, sec. 112.

This act provides that *all vessels* navigating the inland waters of Canada above Montreal, "not having a coasting license, shall, on entering any port in Canada with such vessel," pay the fees above mentioned; this provision applies to all vessels, whether British or foreign. The coasting laws of Canada, however, provide that foreign vessels can not take out a coasting license unless a British register shall have been first obtained, excepting only in the case of vessels belonging to countries wherein Canadian ships have been by treaty admitted to all the privileges of the coasting trade of such foreign country, and allowed to carry goods and passengers from one port or place to another in such country.

In the proclamation by the President of the United States, under date 5th February, 1885, it is admitted that at ports in the province of Ontario "no duty is imposed by the ton as tonnage-tax or as light money, and that no other equivalent tax on vessels of the United States is imposed at said ports," and accordingly he declares and proclaims "that on and after the first Tuesday in February, 1885, the collection of said tonnage duty of 3 cents per ton shall be suspended as it regards all vessels arriving in any port of the United States from any port in the province of Ontario," from which it appears that when issuing the said proclamation the President did not consider the clearing and reporting fees in question to be a tonnage tax, or an equivalent tax on vessels of the United States; and the minister submits that the said clearing and reporting fees are not the equivalent of a tax of 3 cents per ton, either in principle or amount, nor were they imposed as a discriminating duty upon vessels of the United States, as the terms of the act clearly show, the full text of section 234, already referred, to being as follows:

"The governor in council may grant yearly coasting licenses to British vessels navigating the inland waters of Canada above Montreal, and may direct that *a fee of fifty cents shall be payable for each such license*, and that the master or person in charge of any vessel navigating the said waters and not having a coasting license, shall, on entering any port in Canada with such vessel, pay a fee of fifty cents if such vessel is not over fifty tons burden, and of one dollar if she is more than fifty tons burden, to the collector on each entry, and a like fee of fifty cents or one dollar, according to the burthen of the vessel, on each clearance at any port; and such fee shall be payable accordingly before such vessel shall be entered or cleared, provided, that the governor in council may reduce or re-adjust such fees, but may not increase them beyond the amount hereby fixed; and provided also, that vessels merely passing through any Canadian canals, without breaking bulk, shall not be liable to such fees."

The adoption of this provision by the parliament of Canada was intended to be an equivalent for all custom-house fees which otherwise might be charged in detail, and since the act was passed such fees form the only customs charge of that kind which vessels from the United States have been called upon to pay in Ontario ports.

On reference to part 9 of the Treasury regulation dated 12th July, 1884, chapter 2 (which are still in force so far as the minister is aware), under the heading "Table of custom-house fees to be collected at ports and places in the northern, northeastern, and northwestern frontiers of the United States," it will be seen that Ontario vessels are subject to be charged with a variety of fees in United States ports for which there is no other equivalent in Canada than the clearing and reporting fees now in question.

The fees which might be directly applicable to Ontario vessels are as follows:

Under item 10. For certifying a manifest, including master's oath, and granting a permit for a vessel under 50 tons to go from district to district, whether belonging to a citizen of the United States or otherwise $0.10

Item 11. For certifying a manifest, including master's oath, and granting a permit for a vessel over 50 tons to go from district to district, whether belonging to citizens of the United States or otherwise ..... .10

Item 12. For receiving a manifest, including oath of master, on arrival of a vessel under 50 tons from one collection district at another, whether touching at an intermediate foreign port or not ..... .10

Item 13. For receiving a manifest, including master's oath, on arrival of a vessel of 50 tons or over from one collection district to another, whether touching at an intermediate foreign port or not ..... .10

Item 17. For the entry of a vessel directly from a foreign port or not $0.50
Item 18. For the clearance of a vessel sailing directly to a foreign port otherwise than by the sea ..... .50
Item 19. For a port entry 2.00
Item 20. For a permit to land or deliver imported goods not included in any entry ..... .20
Item 21. For a bond officially taken, not otherwise provided for ..... .50
Item 22. For a permit or order to load goods for exportation, whether for benefit of drawback or otherwise ..... .30

Attention is also drawn to item 34 of the same schedule, which reads as follows:

"The fees above mentioned are applicable in the case of all vessels (so far as they concern vessels) navigating the waters of the northern, northeastern, and northwestern frontiers, otherwise than by the sea, and no fees other than those above specially enumerated can be legally collected from the owners or masters, as such, of vessels (not being steamers) enrolled or licensed on said frontiers."

In another part of the said table are found the fees to be collected from steam-vessels plying between Canada and the United States, which fees are as follows:

Entry of a vessel directly from a foreign port $0.50
Clearance of a vessel for a foreign port ..... .50

With a view of showing the actual payment of fees by Ontario's vessels, both sailing and steam, at present trading between Canada and the northern frontier of the United States, the minister begs to insert the following correspondence:

CUSTOM-HOUSE, SARNIA, ONTARIO,
December 15, 1887.

SIR: I have the honor to acknowledge the receipt of your letter of the 10th instant instructing me to procure certain information relative to fees charged upon Canadian sailing vessels or steamers trading between this port and Duluth and Detroit, and would beg to state in reply thereto that there are no Canadian vessels or steamers on the route between here and Detroit, and only the steamers of the "Beatty" line run from and to Duluth. I have, however, procured statements in the form of declarations from the captains of two sailing vessels trading to United States lake ports, and also a statement from Captain Robertson, of the *United Empire*, showing what fees are exacted from Canadian vessels in United States ports.

I have also got from the Port Huron custom-house a corroboration of the captain's statement, the total amount of fees in and out being $1.30; 50 cents fees inward, and 10 cents for blank; and 50 cents out, 20 cents for blanks.

I could, with more time, get any number of statements, but they all amount to the same thing.

I have, etc.,

GEO. N. MATHESON.

I. J. WALTERS, Esq.,
Custom Department, Ottawa, Ontario.

Statement of Capt. Edward Robertson, master of the steamer United Empire, of Sarnia, Ontario.

I have been in command of the steamer *United Empire* for the past four years, trading from Sarnia and other Canadian ports to Duluth, in the United States, and have personal knowledge of the fees charged at the custom house at that port. On reporting in, a fee of 60 cents is paid, and on clearing 70 cents; in all, $1.30, which covers all custom house charges of every kind; no harbor dues, light-house or hospital fees are paid.

I hereby declare that the above statement is true to the best of my knowledge and belief.

E. ROBERTSON.

Declared before me at Sarnia, this 15th day of December, 1887.

W. J. PROCTOR, *J. P.*

Statement of Capt. Patrick Kirwan, master of the Canadian schooner Sligo, of St. Catherine.

I have been in command of Canadian vessels trading to the United States lake ports for five years past, and was master of the schooner *Sligo* since 1886. I have had

occasion to become conversant with the customs charges exacted from Canadian vessels at United States ports. Since the tonnage tax of 30 cents a ton was done away with I have to pay on reporting at Buffalo 80 cents and 60 cents for clearing; in going to Chicago all Canadian vessels must report inward at Cheboygan before entering Lake Michigan, for which a fee of 70 cents is charged, and on arrival at Chicago an additional fee of 10 cents is exacted; on clearing from Chicago a fee of 50 cents is paid. These fees are the same at all ports, as far as I am aware, and no other fees are charged, to the best of my knowledge.

I hereby declare the above statement to be true to the best of my knowledge and belief.

P. KIRWAN.

Declared before me at Sarnia, in the province of Ontario, this 15th day of December, 1887.

JOHN COWAN,
A. Com., etc.

The minister observes that, while the President's proclamation dated 31st January, 1885, did in terms order the suspension of the collection of the tonnage tax of 3 cents per ton as regards all vessels arriving in any of the ports of the United States from any port in the province of Ontario, it would yet appear that a tax of 15 cents per ton, which prior to the issue of such proclamation was the maximum annual tax collected from Ontario vessels, was, as late as February, 1886, exacted by some United States collectors of customs, as is established by the following correspondence:

CUSTOM-HOUSE,
Cornwall, February 6, 1886.

SIR: I am in receipt of a letter from Mr. Barnhart, the owner of the small American steamer *Minnie K.*, which plies between Barnhart's Island and the Canadian shore, requesting permission to run his steamer without having to pay the usual landing fees, between Massena, in New York State, and Cornwall, making two trips a day, for the accommodation of passengers going to and coming from Massena Springs during the season.

There is a Canadian boat running on this route, and I have informed Mr. Barnhart that I would not permit him to run his boat between the points named without paying the usual landing fee demanded from foreign boats; however, Mr. Barnhart says that the American Government allows a Canadian steamer to run from Cornwall to Massena during the season the springs are frequented, without paying daily a landing fee, and he thinks that if the matter were to be laid before this Department he would be allowed a similar privilege.

Please let me have your decision in the matter, and oblige,

Your obedient servant,

A. V. MCMILLAN,
Collector.

The COMMISSIONER OF CUSTOMS,
Ottawa.

Upon the receipt of Mr. Collector McMillan's letter by the department of customs the following reply was addressed to that officer:

OTTAWA, *February* 10, 1886.

A. V. MCMILLAN, Esq.,
Collector of Customs, Port of Cornwall, Ontario:

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, asking permission on behalf of the small American steamer *Minnie K.*, running between Barnhart's Island and the port of Cornwall, to perform her regular trips without payment of the fee for reporting and clearing; and as it is stated that the American Government allows a Canadian steamer to run from Cornwall to Massena without paying a landing fee, I have to instruct, in the first place, to charge the reporting and clearing fees only in cases where the steamer reports goods or merchandise of any kind, and to make inquiries as to whether or not the statement with reference to the action of the United States customs is correct, and report the same.

I have, etc.,

I. JOHNSON,
Commissioner.

In reply to the above the following communication from the collector was received:

CUSTOM-HOUSE,
Cornwall, February 20, 1886. (See File No. 577.)

SIR: Referring to your letter of February 10, with regard to application of American steamer *Minnie K.* to run between Massena and this port without paying the

regular landing fees demanded from foreign boats, I beg to inclose herewith a letter from the collector at the port of Massena, giving a detailed statement of the fees paid at that port by the Canadian steamer *Princess Louise* during the year.

From this it appears that after paying the tonnage dues the Canadian boat has only to pay one entry fee inward and one outward.

Awaiting further instructions in the matter,

I am, etc.,

A. V. MCMILLAN,
Collector.

The COMMISSIONER OF CUSTOMS,
Ottawa, Ontario.

The following letter is the inclosure above referred to:

CUSTOM-HOUSE,
Massena, February 18, 1886.

A. V. MCMILLAN, Esq.,
Collector of Customs, Cornwall, Ontario:

DEAR SIR: Yours of the 10th instant at hand. Total fees charged the *Princess Louise* as follows:

First entry, tonnage tax for the year, 31 tons, 15 cents per ton	$4.65
First entry fee, 50 cents, 1 blank 10 cents	.60
First outward fee, 50 cents, 2 blanks 20 cents	.70
	5.95

The *Princess Louise*, although a British bottom, or foreign vessel, while running daily between Cornwall, Ontario, and Massena, United States, as a ferry, is exempt from all fees except as above named.

Hoping this may satisfactorily meet your inquiry,

I am, etc.,

U. J. P. GAINE,
Collector.

There are numerous other fees provided for in the same regulations, which may be imposed upon Ontario vessels under certain special circumstances, but the above is sufficient to show that the charge of 50 cents and $1, respectively, as fees for clearing and reporting vessels, are not an unfair equivalent for the fees required by the United States customs from Canadian vessels in United States ports.

The committee, concurring in the foregoing report of the minister of customs, advise that your excellency be moved to transmit a copy hereof to Her Majesty's minister at Washington, requesting that the attention of the honorable the Secretary of State for the United States be drawn to the provisions of the fifth clause of "an act respecting the coasting trade of Canada," which reads as follows:

"The governor in council may, from time to time, declare that the foregoing provisions of this act shall not apply to the ships or vessels of any foreign country in which British ships are admitted to the coasting trade of such country, and to carry goods and passengers from one port or place to another, in such country (33 Vic., C. 14, S. 2; 38 V., C. 27, S. 2, part)."

The committee further advise your excellency to convey to the United States Government the desire of the Canadian government for the adoption of a more liberal policy by both countries in relation to coasting in order that the restrictions to trade in the inland waters of Canada and the United States may be removed, and the Dominion be placed in a position to carry out fully the provisions of the section of the coasting law already recited herein.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

No. 551.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *February* 5, 1888. (Received February 7.)

SIR: With reference to the case of certain American vessels in distress at Halifax I have the honor to inform you that the Marquis of

Salisbury has telegraphed to me to the effect that permission has been granted to land part of their perishable cargo in order to operate *bona fide* repairs, but without prejudice to the question of right.

I have, etc.,

L. S. SACKVILLE WEST.

No. 552.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, February 7, 1888.

SIR: I have the honor to acknowledge the receipt to-day of your note dated the 5th instant, in which, having reference to the case of certain American fishing vessels in distress at Halifax, you inform me that the Marquis of Salisbury has telegraphed to you to the effect that permission had been granted to land part of their perishable cargo in order to operate *bona fide* repairs, but without prejudice to the question of right.

I have, etc.,

T. F. BAYARD.

No. 553.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *February* 8, 1888. (Received February 9.)

SIR: I have the honor to inform you that I am instructed by the Marquis of Salisbury to communicate to you the inclosed correspondence with regard to the case of Gurr *versus* Marquardt, at Apia.

Her Majesty's Government have been informed that the United States Government share the contention of the German Government that the case in point is subject to German consular jurisdiction and that the municipal magistrate was not competent to deal with it.

Her Majesty's Government, however, are of a different opinion, and in communicating this correspondence Lord Salisbury has requested me to ask the United States Government whether upon an examination of the facts as therein stated they still concur in the views of the German Government.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

Count Hatzfeldt to the Marquis of Salisbury.

[Translation.]

Confidential.] GERMAN EMBASSY,
London, November 25, 1887. (Received November 29.)

MY LORD: With reference to your lordship's note of the 14th instant, on the subject of the competence of the municipal judge at Apia, in the case of Gurr *v.* Marquardt, I am instructed by my Government to make the following communication to your lordship:

German subjects in Samoa are, according to practice and the terms of the treaty of friendship between Germany and Samoa of the 24th January, 1879, subject to the the German consular jurisdiction. This consular jurisdiction is not restricted by the municipal convention of the 2d September, 1879, but is expressly upheld in Article

ions contained in the regulations and the jurisdiction of the municipal judge do not affect German subjects, except in the case of offenses not contemplated by the German criminal code.

This view has always been held by the German Government, and it was only on the above understanding that the German consul was empowered to give his assent to the regulations issued by the municipal authorities.

From the communications made to the German representative at Apia by his British colleague, the Imperial Government had inferred that the British Government did not recognize the competence of the municipal judge in criminal offenses of a grave character, and that they accordingly held, on the whole, the same view as the German Government in the matter.

The Imperial Government have hitherto not thought it necessary to make any express statement of their views in regard to the regulations to Her Majesty's Government.

The Secretary of State of the United States, having examined the provisions of the convention which bear upon the case in question, has instructed the American representative at Apia not to claim jurisdiction in the case, but to leave it to be dealt with by the German consul.

This particular case is therefore practically settled.

I avail, etc.,

HATZFELDT.

[Inclosure 2.]

The Marquis of Salisbury to Count Hatzfeldt.

Confidential.] FOREIGN OFFICE, *January* 19, 1888.

M. L'AMBASSADEUR: I have the honor to acknowledge the receipt of your excellency's letter of the 25th of November, in reply to mine of the 14th of the same month, upon the subject of the competence of the municipal judge at Apia in the case of Gurr *v.* Marquardt.

Your excellency observes that German subjects are, according to practice and to the terms of the treaty of friendship between Germany and Samoa of the 24th January, 1879, subject to the German consular jurisdiction, and that this latter is not restricted by the municipal convention of the 2d September, 1879, but is expressly upheld in Article VI of that convention, as you proceed to explain.

Her Majesty's Government have since received a full report of the proceedings in the case, an examination of which has entirely confirmed them in the views expressed in my note of the 14th November last.

The municipal magistrate is empowered by the convention of 1879 to try all offenses against the regulations of the municipal board by whomsoever committed.

The municipal board is empowered to make and enforce regulations and by-laws with regard to "police and good order."

Clause 76 of the municipal regulations provided that any person who shall be guilty of an assault (with certain exceptions not affecting the present case) shall be liable, on conviction before the municipal magistrate, to the punishment therein prescribed.

That regulation was assented to by the representatives of the three treaty powers, and it in no way conflicts with the general exterritorial jurisdiction reserved to the Imperial German Government over German subjects. The intervention of the German consul was based on the ground that the offense charged was not "a common police offense"; but it is abundantly clear from the evidence that such a contention can not be supported.

It was a case of common assault, such as is summarily dealt with by police magistrates in all countries, and Her Majesty's Government can only express their regret at the failure of justice which has unfortunately occurred.

I have, etc.,

SALISBURY.

[Inclosure 3.]

Sir C. Mitchell to the Marquis of Salisbury.

[Confidential.]

No. 35 Consular.] GOVERNMENT HOUSE,
Suva, Fiji, September 15, 1887. (Received November 14.)

MY LORD: I have the honor to inclose copy of a dispatch which I have received from Mr. W. Wilson, acting vice-consul at Samoa, reporting the action taken by M. VI of that convention. According to the terms of that article, that penal provis-

Becker, the imperial German consul-general, in declaring that the municipal regulations are not applicable in the case of a German subject charged with committing an assault on premises situated within the municipal district of Apia, and that such German subject is liable in respect of the alleged offense to the jurisdiction of the German consular court only.

The case in question does not appear to me to be an important one; but the difference of opinion among the consular members of the municipal board may, perhaps, cause some embarrassment. I have therefore taken the opinion of the acting chief judicial commissioner on the matter, of which I inclose a copy; and, in accordance with this opinion, I have sent to Mr. Wilson the instructions contained in a letter, of which a copy is inclosed, together with a copy of Mr. Berkeley's opinion.

I have, etc.,

C. B. H. MITCHELL.

[Inclosure 4.]

Acting Vice-Consul Wilson to Sir C. Mitchell.

SAMOA, *August* 25, 1887.

SIR: I have the honor most respectfully to report, for your excellency's information, particulars of a case which have come before my notice as proconsul and as a member of the appellate court of the municipality of Apia.

Mr. E. W. Gurr, a British subject, lodged a complaint against M. Marquardt, a German, in the municipal court, for a common assault. The case was heard before Mr. Martin, the municipal magistrate, on the 29th ultimo. I am informed by Consul-General Sewall, who was present, as well as others who watched the case, that the interruptions caused by the Germans present were of such a nature that had they taken place in any other court the majority of Germans would have been committed for contempt.

At one time the defendant left the court and went to the German consulate, but was sent back by orders of the German consul to the court-house. At 2.30 p. m. a letter (copy inclosed) was read from the German consul, in which he withdrew M. Marquardt from the jurisdiction of the municipal court, affirming that he was only liable to that of the German consular court. On receipt of Consul Becker's letter Mr. Martin dismissed the case.

An appeal was lodged by Mr. Gurr with Consul-General Sewall, president of the appellate court, against the dismissal of the case by the municipal magistrate.

Believing that this case was within the jurisdiction of the municipal court as per regulation 76, and that Mr. Gurr was entitled to appeal as per regulation 87 of the municipality of Apia, I requested Consul-General Sewall to call a meeting of the appellate court. M. Consul Becker refused to assist; therefore the appellate court could not sit, and Mr. Gurr's appeal remains unheard.

I have the honor to inclose for your excellency copy of the notes of the trial as given by the municipal magistrate.

I have, etc.,

W. H. WILSON.

[Inclosure 5.]

The German consul at Apia to the municipal magistrate.

APIA, *July* 29, 1887.

SIR: I have the honor to inform you that, with regard to those of the municipal regulations which, like the greater part of regulation No. 76, provide for the punishment of criminal offenses, I am directed by instruction received from my Government that they are not applicable to German subjects.

I am of opinion that assault in the case of "Gurr *v.* Marquardt" is of the nature of a criminal and not only of a common police offense. M. Marquardt being a German subject, he is in the said case liable to the jurisdiction of the German consular court only.

I have, etc.,

BECKER,
Imperial German Consul.

I hereby certify the above to be an exact copy.

OTTO MARTIN,
Municipal Magistrate.

[Inclosure 6.]

Appeal to the appellate court of the municipality of Apia, in the matter of the complaint of E. W. Gurr against M Marquardt.

The appellant states that he lodged a complaint against the respondent for having committed upon him a common assault.

That afterwards the respondent was examined, but the counsel of the appellant was not permitted to cross-examine the respondent, and an adjournment was granted by the court until the hour of 2 p. m.

That the appellant duly appeared at such time, but by consent the case was further adjourned until the hour of 2.30 p. m.

That upon the opening of the court the case being called on for hearing, and opened at the said hour, a letter was read from His Imperial German Majesty's consul, a copy whereof is hereunto annexed. Whereupon the municipal magistrate summarily refused to proceed further with the hearing of the appellant's case of common assault.

That the appellant complains that the municipal magistrate had no authority to dismiss the said case in the manner hereinbefore stated.

That the municipal court of Apia of Samoa is a court of Samoa, and is not amenable to the interference of other powers or authorities save within certain treaty limits.

That the case in question was one of common assault, and could have been adjudicated upon by the municipal magistrate, and was within his reasonable jurisdiction, and that the action of His Imperial German Majesty's [consul] was, in so prohibiting the said case being heard, contrary to the convention whereunder the municipal regulations are now carried out.

And the appellant further says that His Imperial German Majesty's consul has no right to interfere with regard to police offenses.

And the appellant claims that this case shall be remitted to the municipal magistrate from the time of the interruption thereof.

And that the municipal magistrate be instructed to proceed with the further hearing and final decision of the said case.

[Inclosure 7.]

Regulation 76 of the municipal board.

[Inclosure 8.]

Regulation 87.

[Inclosure 9.]

The American consul-general to the German consul-general.

UNITED STATES CONSULATE-GENERAL,
Apia, Samoa, August 13, 1887.

SIR: An appeal from the magistrate's action in the case "Gurr *v.* Marquardt" has been placed in my hands as president of the municipal court of appeal.

Municipal regulation numbered 87 provides that an appeal shall be heard as soon as possible after the date of the notice of appeal. The hearing of this appeal has already been delayed over two weeks, and I would name Monday at 2 o'clock as a suitable time at which to set down the hearing.

Will you let me know, at your earliest convenience, if this time is satisfactory to you, in order that notices may be sent to the parties concerned?

I have, etc.,

HAROLD M. SEWALL,
Consul-General.

[Inclosure 10.]

The German consul-general to the American consul-general.

IMPERIAL GERMAN CONSULATE FOR THE SOUTH SEA ISLANDS,
Apia, August 14, 1887.

SIR: In answer to your letter of the 13th August, and with reference to our conversation of yesterday, I have the honor to inform you that I can not assist at any meeting of the municipal court of appeal concerning the case of "Gurr *v.* Marquardt."

I have, etc.,

BECKER.

[Inclosure 11.]

Police vs. Marquardt (German), in the employment of Deutscher Handels-und Plantagen-Gesellschaft, etc., July 29, 1887.

Mr. Hetherington for complainant, Mr. E. W. Gurr.

Charge, assault and battery, committed yesterday afternoon on the ground of the Deutscher Handels-und Plantagen-Gesellschaft, where E. W. Gurr went for the purpose of taking delivery of goods. The person in charge of establishment promised to deliver goods. E. W. Gurr signed a receipt for these goods; then E. W. Gurr went to take delivery of goods; but then, regarding the goods, it was declared that delivery could not be given. Seeing the receipts in the hands of Marquardt he seized the receipts and was about to leave the premises of the Deutscher Handels, etc., when E. W. Gurr received a violent blow on the head from the defendant.

E. W. Gurr, sworn:

"Went to the Deutscher Handels- und Plantagen-Gesellschaft's premises at 2 p. m.; saw some clerks; went into the goods' shed and asked Marquardt about the goods; signed receipts for goods (delivery of which was promised) for the delivery of same, intending to take them away afterwards; heard then that goods would not be delivered, although signed for; had some conversation with Marquardt, and afterwards seized receipts; then turned away to leave premises; received a blow from defendant; did not threaten before, and received the blow from behind."

Witness Charles Taylor, in the employ of E. W. Gurr:

"Was yesterday on the premises of the Deutscher Handels- und Plantagen-Gesellschaft; saw E. W. Gurr and Marquardt; heard them talk together; saw E. W. Gurr seize the receipts from Marquardt; then E. W. Gurr turned to go away; then Marquardt ran after E. W. Gurr; saw him strike E. W. Gurr from behind."

Asked by Marquardt:

"Was close by when conversation went on; saw Marquardt strike from behind forcibly."

Marquardt, defendant, sworn:

States, with regard to the receipts, that he requested E. W. Gurr to cancel the receipts either by scratching out his signature or writing not received; then E. W. Gurr seized the receipts from him and said, "If you don't give me the receipts, then I will take them." Then E. W. Gurr struck him on the nose; after that he returned the blow, and Charles Taylor struck him too.

Then M. Krause took up M. Marquardt's case, pleading as a friend.

Decision.

Case being taken up by German consulate, as per letter of the 29th July, was then dismissed from magistrate's jurisdiction.

Certified this to be a true copy of the magistrate's notes.

OTTO MARTIN,
Municipal Magistrate.

[Inclosure 12.]

OPINION BY MR. H. S. BERKELEY.

In this case one Gurr, a British subject, charges one Marquardt, a German subject (both parties being resident within the municipality of Apia, Samoa), with having committed an assault upon him in the business premises of a firm of German subjects trading within the municipality.

The charge was laid, by way of complaint, before the magistrate of the municipality of Apia, an officer appointed by the municipal board of Apia, under article 5 of the municipal convention of the 2d of September, 1879, to try "all offenses against the regulations of the municipal board by whomsoever committed."

The municipal board of Apia, which by article 2 of the municipal convention of 1879 consists *inter alios* of "those foreign consuls resident in Apia whose nations have entered into treaty relations with Samoa," is by article 3 empowered *inter alia* to make and "enforce regulations and by-laws with regard to police and good order."

By clause 76 of the municipal regulations, any person who shall be convicted of an assault (except an assault coming within the provisions of regulations 22 and 41) is liable on conviction before the magistrate to the punishment prescribed for such

offense in the schedule to that clause. The assault charged is not such an assault as comes within the exception in the schedule to clause 76, and it is claimed by Gurr that it was an assault within regulation 76, and that as such the municipal magistrate had power and jurisdiction to try and determine the charge as laid. The complaint of Gurr was received by the magistrate, and the evidence of the complainant and his witnesses and that of the defendant was taken.

At this stage the Imperial German consul appears to have intervened, and to have excepted to the jurisdiction of the magistrate to try Marquardt for the offense for which he was charged. The grounds of the exception taken by the Imperial German consul being that the assault complained of in this case is "of the nature of a criminal and not of a common police offense," and that "M. Marquardt being a German subject is consequently liable to the jurisdiction of the German consular court only." Upon this exception to his jurisdiction being taken the municipal magistrate dismissed the case without coming to any decision upon the evidence taken before him. An appeal to the appellate court of the municipality of Apia of which each of the consuls resident in Apia is a member, was subsequently lodged by Gurr against the dismissal of the case by the municipal magistrate. Notices of the appeal were sent by the president, the United States consul, to the Imperial German consul, with a suggestion for fixing a day for hearing the appeal. In reply to this notice the Imperial German consul stated that he could not "assist at any meeting of the municipal court of appeal concerning the case of 'Gurr *v.* Marquardt.'"

This refusal on the part of the Imperial German consul was consistent with the position which he had previously advanced, viz, that the offense with which Marquardt was charged was not an offense cognizable in the court of the municipal magistrate of Apia. If the Imperial German consul is right in the view he takes of the jurisdiction of the municipal magistrate in cases of this description, then no appeal would lie to the appellate court. Indeed, in my opinion there is in no case a right of appeal against the dismissal of a case by the municipal magistrate, whether such dismissal be on the ground of want of jurisdiction or on any other ground. The right of appeal is the creation of statute, or, as in this case, of regulation, and the words creating this right are to be construed strictly, and not extended beyond their ordinary meaning. The regulation which confers the right of appealing in certain cases against the decisions of the municipal magistrate is the eighty-seventh. By that regulation every person against whom judgment is rendered shall be entitled to appeal from such decision to the consular members of the municipal board. It is not from every decision of the magistrate that an appeal may be made, but only from such decisions as are judgments. In this case there was no judgment given, but the complaint was dismissed for want of jurisdiction.

In England or in a British colony the propriety of the magistrate's refusal to entertain the charge would be determined not by way of appeal, but on an application to the high or supreme court for an order directing the magistrate to hear and determine the complaint. On such an application the question of the jurisdiction of the magistrate would be raised and settled, and if it appeared that the magistrate had jurisdiction he would be ordered to proceed to judgment.

There is in Samoa no jurisdiction corresponding to a high or supreme court to which application could be made for mandatory directions to the municipal magistrate; and consequently, as there is no right of appeal in the ordinary course, the remedy, if the municipal magistrate has wrongfully refused to hear this complaint, can only be obtained by convincing the magistrate himself that he has jurisdiction in the case of German subjects. So much for the right to appeal.

The question whether the municipal magistrate had, under the municipal regulations passed under the authority of the convention of 1879, jurisdiction to entertain this complaint, is one of greater difficulty, and depends upon the meaning to be assigned to the words "regulations and by-laws with regard to police and good order," in Article III of the convention, and upon the powers and authority to affect German subjects conferred thereby, and by Article V upon the municipality and the municipal magistrate of Apia. The Imperial German consul contends, upon his reading of instructions from his Government, that these words do not confer upon the municipal board power to make regulations which will in their turn confer power upon the municipal magistrate to inflict punishment upon a German subject for the commission of a criminal offense within the municipality; and he further contends that such words limit the powers of the municipal board to the making of regulations concerning what he terms "common police offenses," and he states it as his opinion that the offense with which M. Marquardt was charged was not a common police offense" within the meaning of the words "police and good order" as used in Article III, but that it is rather in the nature of a "criminal offense" for the commission of which a German subject is answerable to the German consular court only.

It seems to me that the interpretation placed by the Imperial German consul upon the meaning of the words "police and good order" in Article III, while it may in cases where serious criminal offenses are charged against German subjects be the

correct one, is not applicable, on the facts proved and admitted, to this case. The offense charged here is a simple police case, where on a dispute arising between two persons one, it is charged, commits upon the other a common and apparently slight assault, and is thereby guilty of a breach of the peace and order of the municipality. The offense charged is one which would, both in Germany and in Great Britain, be heard and determined by a magistrate; it is nothing more than a common brawl, in which, apparently, both parties lost temper, and in which one may or may not be more to be blamed than the other. Such a case is one which is most properly settled as soon as may be before a magistrate, and, if not dismissed, would probably be met by the infliction of a fine of a few shillings upon the party most to blame. If the offense charged here may properly be regarded as an offense against "the peace and order" of the municipality, then it might have been tried by the municipal magistrate, notwithstanding that one of the parties was a German and the other a British subject; for, by Article V of the convention, all such offenses may be tried by such magistrate, by whomsoever such offense may be committed.

It seems to me that the interference of the imperial German consul was uncalled for, and that the municipal magistrate was wrong in coming to the conclusion that he had no jurisdiction to entertain the complaint. As I have before pointed out, however, there is no legal machinery by which the municipal magistrate can be ordered to hear the complaint should he still continue to refuse to do so. It therefore seems to me that if Gurr conceives that he has been wronged by the alleged assault, his simplest course would be to lay complaint against Marquardt in the imperial German consular court, where he will, on proving his case, be sure to receive any reparation to which he may show himself entitled, for, while Article III of the convention confers jurisdiction on the municipal board of Apia to deal by regulations with cases such as this, there is nothing in that article which deprives the imperial German consular court of any jurisdiction which it may have over German subjects.

H. S. BERKELEY,
Acting Chief Judicial Commissioner.

SEPTEMBER 14, 1887.

[Inclosure 13.]

Sir C. Mitchell to Acting Vice-Consul Wilson.

GOVERNMENT HOUSE,
Suva, Fiji, September 15, 1887.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 25th August, respecting the complaint of Mr. W. Gurr against M. Marquardt, a German subject, and to the action of the German consul-general in declaring that the offense with which M. Marquardt was charged was not triable by the municipal magistrate.

I have submitted these papers to the acting chief judicial commissioner, of whose opinion I inclose a copy. You will advise Mr. Gurr, if he wishes to proceed against M. Marquardt, to do so in the German consular court. You will also inform the German consul-general that you have recommended this course, adding at the same time that I am advised that the case is one in which the municipal magistrate should properly have considered he had jurisdiction to entertain the complaint, but that there is nothing in the convention which deprives the imperial German consular court of any jurisdiction which it may have over German subjects.

I am, etc.,

C. B. H. MITCHELL.

No. 554.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *February* 14, 1888. (Received February 17.)

SIR: I have the honor to inclose to you herewith a statement of certain facts connected with the sale of a British vessel to parties in the United States, and in view thereof to inquire whether it would be

possible for the United States Government to adopt any measures for preventing vessels apparently sold to and owned by citizens of the United States from continuing to sail under the British flag.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

STATEMENT.

In August, 1883, a brigantine called the *Aristos*, registered at Shelburne, Nova Scotia, stranded at Santa Cruz and became a wreck. The shipwrecked crew were relieved by Her Majesty's Government. It was, however, afterwards discovered that the said vessel had been sold some twenty years previous to her loss to parties in the United States. The ship in question had evaded the law which requires the closing of the registry upon sale, and it is thought that there are other vessels which in the same manner have evaded it, and, although *bona fide* American vessels, are actually sailing under the British flag.

The British Board of Trade, therefore, would be glad to know whether it is possible for the United States Government to adopt measures for preventing British vessels which have been sold to American citizens from continuing to sail under the British flag.

No. 555.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, February 14, 1888.

SIR: I have the honor to inclose herewith a copy of a letter from the Attorney-General, transmitting a copy of a letter to him, dated the 3d instant, from the United States attorney at Norfolk, Va., in relation to the misconduct of the commander of the British steamer *North Erin* when a deputy United States marshal attempted to serve process upon him, on the 2d instant, while the *North Erin* was inside Cape Henry, Virginia, and within the jurisdiction of the United States.

Should you deem it proper to do so, I will thank you to bring the matter to the attention of Her Majesty's Government with a view to its being laid before the proper authorities for such action, if any, as they may be authorized to take, should they find the facts to be as stated, and the laws and regulations in relation to shipping make provision for the correction of the misconduct of officers of merchant vessels under such circumstances as the present case presents.

I have, etc.,

T. F. BAYARD.

[Inclosure 1.]

Mr. Garland to Mr. Bayard.

DEPARTMENT OF JUSTICE,
Washington, February 9, 1888.

SIR: I have the honor to send you, for your information, a copy of a letter of the 3d instant from Mr. Gibson, attorney of the United States for the eastern district of Virginia in relation to the conduct of the commander of the British steamer *North Erin* when a deputy United States marshal, in whose hands was an attachment against the vessel, attempted to go aboard the latter.

Very respectfully,

A. H. GARLAND,
Attorney-General.

[Inclosure 2.]

Mr. Gibson to Mr. Garland.

NORFOLK, VA., *February* 3, 1888.

SIR: I have the honor to report that on the 2d instant Reynolds Bros., of Norfolk, Va., sued out a libel in the United States district court of this judicial district against the steamer *North Erin*, a British vessel bound to Liverpool, England, for the sum of $14,231, in the cause of contract, civil and maritime.

On the same day an attachment was sued out of said court against said vessel, and was placed in the hands of John I. Sullivan, special deputy United States marshal eastern district, Virginia. This vessel then being on her way to some foreign port, the deputy marshal chartered a tug-boat and proceeded the same evening to Cape Henry, Virginia, to intercept the vessel and levy the attachment. As the steamer was nearing the cape the deputy marshal went to her in a boat, hailed the captain, and told him he wished to go aboard. As he got alongside of the steamer the captain gave orders to increase her speed and threw out a ladder to enable the pilot then on board the steamer to leave her and go in the boat in which the deputy marshal was. The deputy marshal started up the ladder and told the pilot that he was a deputy United States marshal and wanted to see the captain on business. One of the crew called out to the captain that a United States officer wanted to board his vessel. The captain ordered his crew to throw the marshal off. As the marshal tried to climb the ship the crew lowered him down. This movement was twice repeated. On his third attempt to board, the marshal reached and grasped the ship's railing with his hand. The rope was then untied, the ladder was thrown over, and the marshal was pushed from the vessel. The marshal fell some 20 or 30 feet, and fortunately fell into a boat of the pilot-boat *William Graves*. Had he not done so the suction of the moving steamer would almost inevitably have drawn him under. The pilot was carried off in the captain's steamer.

The name of the captain of the steamer was John Owens. His vessel was loaded at West Point, Va., with cotton for Liverpool.

Very respectfully,

J. C. GIBSON,
United States Attorney.

No. 556.

Mr. Bayard to Sir L. S. Sackville West.

Personal.] DEPARTMENT OF STATE,
Washington, February 15, 1888.

DEAR SIR LIONEL: After reading the memorandum of Lord Salisbury in relation to the Sandwich Islands, it does not occur to me that I can add anything to what I stated to you orally in our interview on the 23rd of December last, when you first sent it to me.

I was glad to find that you quite understood, and had conveyed to your Government, the only significance and meaning of the Pearl Harbor concession by the Hawaiian Government, as provided in the late treaty of that Government with the United States, and that it contained nothing to impair the political sovereignty of Hawaii.

The existing treaties of the United States and Hawaii create, as you are aware, special and important reciprocities, to which the present material prosperity of Hawaii may be said to owe its existence, and by one of the articles the cession of any part of the Hawaiian territory to any other government without the consent of the United States is inhibited.

In view of such existing arrangements it does not seem needful for the United States to join with other governments in their guaranties to secure the neutrality of Hawaiian territory, nor to provide for that equal accessibility of all nations to those ports which now exists.

I am, etc.,

T. F. BAYARD.

No. 557.

Memorandum handed to Mr. Bayard by Sir L. S. Sackville West, March 7, 1888.

The object of Article VIII of the draught of convention annexed to the protocol of December 19, 1887, respecting sugar bounties, has not been fully or correctly understood in some quarters.

A copy of this article is annexed. Its object is not, as appears in some instances to have been erroneously held, to exclude certain British colonies and foreign possessions from the convention which Her Majesty's Government trust will be entered into for the purpose of suppressing bounties on the exportation of sugar. The British colonies mentioned in this article possess responsible government, and it is necessary, and is now the usage of Her Majesty's Government in concluding treaties of a commercial character to except these colonies in the first instance from the operation of such treaties in terms similar to those employed in the article above referred to. India is also included in the article which reserves the liberty of action of the self-governing colonies, in order to enable the government of the viceroy to consiner the stipulations of commercial treaties, and whether they are applicable to the peculiar circumstances of the Indian empire.

In the sitting of the conference in London, held on the 16th of December last, the under secretary of state for the colonies stated the expectation of Her Majesty's Government that all the British possessions named in Article VIII of the draught of convention will become parties to its engagements.

[Inclosure.—Translation.]

ARTICLE VIII.

The stipulations of the present convention will apply to the colonies and possessions of Her Britannic Majesty with the exception of those named below, to wit:

The East Indies, Canada, Newfoundland, the Cape, Natal, New South Wales, Victoria, Queensland, Tasmania, Southern Australia, Western Australia, New Zealand.

However, the stipulations of the present convention will apply to one of the colonies or possessions above indicated from the date on which the British Government shall notify the other contracting powers of the adhesion of the said colony or possession.

Each one of the colonies or possessions above named which shall have adhered to the present convention maintains the faculty to withdraw in the same manner as the contracting powers.

In case one of the colonies or possessions in question should desire to withdraw from the convention, a notice to this effect shall be given by the British Government to the other contracting powers.

No. 558.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, March 6, 1888.

SIR: With reference to your note of the 14th ultimo, inquiring whether it would be possible for this Government to adopt any measures for preventing vessels sold to and owned by American citizens from continuing

to sail under the British flag, I have the honor to inform you that the Secretary of the Treasury, to whom the matter was referred, reports that there does not seem to be any legislation of the United States bearing upon the subject, and that in the absence of such legislation it would not be practicable for the executive or judicial branch of this Government to intervene with a view to the prevention of transactions of the character mentioned in your note.

I have, etc.,

T. F. BAYARD.

No. 559.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, March 19, 1888.

SIR: It was agreed to consider as confidential the joint protocols of the conference I had the honor to hold in this city last summer with you and the German minister; but in view of all that has since transpired, and the failure thus far to accomplish the ends then sought for, I suggest that, pending further consideration of the Samoan question, each Government be at liberty to publish the joint protocols.

As the President is about to make a communication on the general subject to Congress, I would thank you for as early a reply as may be convenient to this note.

Accept, etc.,

T. F. BAYARD.

No. 560.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *March* 19, 1888. (Received March 21.)

SIR: In conformity with instructions which I have received from the Marquis of Salisbury, I have the honor to inclose to you herewith copy of a dispatch which his lordship has addressed to Her Majesty's representatives on the subject of a concession granted by the Porte for the erection or maintenance of thirty lights in the Red Sea, on the south-eastern coast of Arabia and in the Persian Gulf. Copy of this document is likewise inclosed, together with copy of a note from the Turkish ambassador in London and a copy of a memorandum prepared by the board of trade.

In transmitting this correspondence to you I am at the same time requested to invite the United States Government to inform Her Majesty's Government whether the Turkish proposals should, in their opinion, be agreed to, and, if not, as to what lights their trade requires, and what dues they are prepared to pay for them.

I have, &c.,

L. S. SACKVILLE WEST.

[Inclosure.]

Circular instructions relative to Red Sea lights.

FOREIGN OFFICE, *February* 29, 1888.

In the year 1881 the Porte granted to Messrs. Collas and Michel a concession for the erection and maintenance of thirty lights in the Red Sea, on the southeastern coast of Arabia and in the Persian Gulf.

Copy of this document is inclosed for your information. Her Majesty's Government have objected to the terms of the concession, and in August last a meeting to discuss it took place at this office between Sir James Fergusson, Mr. Henry G. Calcraft, Mr. Kennedy, and Rear-Admiral Sir G. Nares, on the part of Her Majesty's Government, and Morel Bey and M. Collas, as representing the Porte and the concessionaires; but the Porte, in the note from Rustem Pasha of the 15th of that month, while agreeing to certain modifications, declined to admit all the objections of Her Majesty's Government.

I inclose copy of his excellency's note, together with copy of a memorandum prepared by the board of trade, which enters fully into the details of the scheme, and the objections which Her Majesty's Government consider exist to it.

It will be seen from this memorandum that, as regards the portion of the concession which relates to the lighting of the Red Sea, in the opinion of Her Majesty's Government, eight out of the twelve proposed fairway lights are not required for the protection of ships passing through that sea, and that six of them would not, in ordinary circumstances, even be sighted; that two more are not absolutely necessary for the safety of shipping carefully navigated; and that the establishment of these two can well be deferred for the present. Also that the dues authorized under the concession are inordinately high.

It is shown that by omitting the erection of the lights which are considered unnecessary, it would be possible to provide for the erection of all the lights in the neighborhood which are needed, at a smaller expense to the shipping trade than is proposed under the concession.

The dues leviable under the concession for the twelve Red Sea fairway lights alone, would, as shown in the memorandum, amount to about £38 for each voyage on a vessel of 3,200 net tonnage, in addition to the charges for supporting the Egyptian lights already established, and which amount to about £38 for a vessel of the same tonnage. The dues, moreover, for the lights authorized by the concession, if once agreed to by the maritime powers, are to be continued for forty years. No provision is made for their revision in the event of trade increasing, or in that of the cost of erection being previously paid off.

On the other hand, the cost of maintaining the existing Red Sea lights, establishing the additional ones that are absolutely necessary within the Egyptian, Turkish, and Guardafui districts, and providing a sinking fund for the repayment of the cost of their erection, can, it is expected, be met as soon as a reduction can be made in the Egyptian light-house dues, by a tariff of about the amount now levied for the Egyptian Red Sea lights alone.

It will be seen from Rustem Pasha's note referred to, that, notwithstanding the objections raised by Her Majesty's Government to the concession, the Porte holds in the main to its terms, and says that the separation of the Abu Ail and Mocha shoal lights from the general concession is impossible.

It is indeed stated that the scheme is open to modification, but, looking to the above-mentioned expression of opinion and to the fact that a high fixed tariff is proposed, Her Majesty's Government conclude that the modification can only refer to the number of lights being slightly reduced or the sites somewhat altered.

But, besides the objections held by Her Majesty's Government to the proposed fairway lights and the scale of dues, they consider that the following points are of great importance and should be firmly maintained in dealing with the concession.

(1) That the Red Sea fair-way lights erected for the benefit of and supported by dues levied on the passing foreign trade should be in no way coupled financially with any other lights or with Government funds applicable to other purposes.

(2) That whatever country provides lights should levy dues only in strict proportion to the actual cost of the service, and that the expenses should be kept as low as possible with due regard to efficiency.

(3) That provision should be made for the periodical revision of the tariff, and that yearly accounts should be published for the information of the countries whose trade is taxed, as is already done by Egypt in connection with the lights in the northern part of the Red Sea, and by Great Britain in connection with lights in the Indian Ocean and on the south coast of Ceylon.

The accompanying extract of a letter from the board of trade, dated the 22d February, 1886, points out the undesirability of acknowledging or admitting the fresh establishment in practice of a right on the part of any power to benefit financially

through taxes levied on a foreign passing trade in connection with lights on its coast or on off-lying dangers, a line of policy for the abolition of which the several maritime powers have made great effort, and for the abandonment of which, when prescribed by long usage, a large sum was paid by them to Denmark in 1857, when the sound duties were done away with.

At the present time, although many countries exercise their undoubted right to levy local light dues on ships entering their ports, no country, except Turkey (who taxes the Black Sea trade on passing the Dardanelles), so far as Her Majesty's Government are aware, in any way levies light dues on the foreign trade passing their general coast lights, unless it enters one of their ports, much less does any other foreign government benefit financially through levying such dues.

If the Collas concession were agreed to, a further precedent would be created in opposition to the principle on which action was taken regarding the sound duties, for the Turkish treasury, which would receive 10 per cent. of the dues levied, would, by thus taxing a foreign passing trade, immediately benefit to the extent of some £7,000 a year over and above the cost of the light-house service.

With reference to the statements made in Rustem Pasha's letter of August 15, I have to observe that the proposed Turkish Red Sea light dues and the Egyptian Red Sea light dues are in no way comparable, the accounts of the latter being published for general information, and the tariff being subject to revision. The statement that Turkey will light an area of 325 miles with twenty-three lights for the same amount of dues as is now charged by Egypt for lighting 100 miles by means of seven lights is incorrect, for the eleven Turkish coast and harbor lights included in the above number have special dues levied for them.

In consideration of these circumstances, and as the concurrence of the maritime powers in the tariff is necessary before the concession can come into force, Her Majesty's Government propose to inform the Porte that they can not agree that the trade of this country which passes through the Red Sea without touching at a Turkish port should be taxed except to such an extent as may be found necessary to pay the actual cost of erecting and maintaining such lights as are absolutely necessary for that trade. But before doing so they would be glad to know the views of other powers interested in the matter.

I have, therefore, to request you to invite the Government to which you are accredited to inform Her Majesty's Government as to whether the Turkish proposals should, in their opinion, be agreed to, and, if not, as to what lights their trade requires, and what dues they are prepared to pay for them; and you will communicate to the foreign minister a copy of this dispatch, and of its inclosures, for his excellency's information.

I am, with great truth, etc.,

(*For the Marquis of Salisbury.*)

No. 561.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *March* 19. (Received March 20.)

SIR: I have the honor to inform you that the Marquis of Salisbury has requested me, by telegraph, to represent to you the very great importance which Her Majesty's Government attach to the presence of a delegate from the United States Government at the approaching sugar conference which opens on the 5th April next, and that the negotiations can not be carried to a successful issue unless the United States take part in them.

Trusting that you will give this matter your early attention,

I have, etc.,

L. S. SACKVILLE WEST.

No. 562.

Sir L. S. Sackville West to Mr. Bayard.

MARCH 20, 1888. (Received March 21.)

SIR: With reference to my note of yesterday's date, and to previous correspondence, I have the honor to inform you that the Marquis of

Salisbury, in renewing his hope that the United States Government will be represented in the forthcoming sugar conference, has requested me to ask that the documents referred to in the protocol of December 19, 1887, may be communicated to Her Majesty's Government as soon as possible.

I have, etc.,

L. S. SACKVILLE WEST.

No. 563.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, March 21, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, whereby you inform me that the Marquis of Salisbury has requested you by telegraph to represent to me the very great importance which Her Majesty's Government attaches to the presence of a delegate from the United States Government at the approaching sugar conference which opens on the 5th of April next, and that the negotiations can not be carried to a successful issue unless the United States take part in them.

It appears from the report of Mr. Henry White, who, under certain declared reserves, represented this Government at the late conference which met in London to consider the sugar bounties question, that the object of the conference now about to meet is the signature of an international convention, whereby the contracting parties agree to take legislative measures to abolish or prevent any direct or indirect bounty on exported sugars, and to adopt or propose the adoption by legislation of "a system of imposts upon the amounts of sugar produced and ready for consumption, as the sole means of accomplishing the abolition of the bounties in question, and to submit to the same régime the factories of glucose and of sugar from molasses."

As the question of general tariff and revenue revision is now pending in the House of Representatives, and a bill has been reported from the committee in charge which deals with the duties on sugars and sugar-producing molasses, this Government is not prepared at this time to become a party to the proposed convention, as presented by the late conference. Article VII of that draught, however, provides for the subsequent adhesion of states not originally signing the convention, so that an attitude of reserve in this regard does not prejudice the liberty of subsequent action by this Government in the premises.

If your Government will be satisfied with the attendance of a delegate of the United States, under the reserve that he is not empowered to sign a convention or otherwise commit the Government of the United States to the results of the conference, I shall be pleased to telegraph instructions to the United States minister at London to direct Mr. White to attend the adjourned meeting of the conference, as before.

I have, etc.,

T. F. BAYARD.

No. 564.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, March 21, 1888.

SIR: By your note of the 20th instant, which I had the honor to receive this morning, you refer to your note of the 19th, touching the second meeting of the sugar conference at London, April 5; and further express the request of the Marquis of Salisbury that the documents referred to in the protocol of 19th December, 1887, may be communicated to Her Majesty's Government as soon as possible.

Supplementing my reply of this date to your note of the 19th instant, I have to say touching the provision of the protocol to which you refer—to the effect that governments contemplating adhesion to the proposed convention should give notice of such intention before March 1, communicating at the same time the system of taxation they may propose for carrying out its provisions, and the method and extent of the employment of saccharometric tests—that as this Government is unprepared at present to accept the convention itself, it is necessarily unprepared to give the detailed statements suggested, especially as the subject is one of pending legislation affecting the revenue.

I have, etc.,

T. F. BAYARD.

No. 565.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *March* 22, 1888. (Received March 23.)

SIR: With reference to your note of the 19th instant, suggesting that each Government should be at liberty to publish the joint protocols of the Samoan conference, I have the honor to inform you that Her Majesty's Government are of opinion that, pending the re-assembling of the conference, its proceedings should be considered confidential, and that the publication of them at present might prejudice the satisfactory solution of the question.

I have, etc.,

L. S. SACKVILLE-WEST.

No. 566.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, March 24, 1888.

SIR: I have had the honor to receive your note of the 2d ultimo, transmitting a copy of an approved minute of the privy council of Canada, embodying a report of the minister of customs in relation to certain fees charged on vessels of the United States in the ports of Ontario.

Judging by the tenor of the report of the minister of customs, it would appear that the main argument of my note of the 17th of November last, to which the report is a reply, has not been correctly apprehended. It was not my purpose to argue that the entrance and clearance fees charged on American vessels in certain ports of Ontario are an equivalent of the tonnage duty of 3-15 cents, which was suspended by the President's proclamation of January 31, 1885, as to vessels coming to the United States from ports in Ontario. Upon this point it is not proposed now to express any opinion.

The purpose of my note was to point out that the entrance and clearance fees referred to constitute a discriminating duty upon vessels of the United States entering at and clearing from ports of Ontario. In reply to this the minister of customs refers to certain fees charged on Canadian vessels in lake ports of the United States, as equivalent to the fees charged in the ports of Ontario. It is not shown, however, that these fees are in any respect discriminating.

In my note of the 17th of November last it was stated that the Department had been informed that the charge of 50 cents for entrance and for clearance on United States vessels of less than 50 tons burden, and of $1 for each of the same purposes on United States vessels of 50 tons burden or over in certain ports of Ontario, was not charged on Canadian vessels entering the same ports from the United States, provided such vessels had taken out a coasting license, which is granted to them free or for a nominal charge, and which they all possess.

The report of the minister of customs appears to admit this difference in treatment, which amounts to a discriminating tax imposed on vessels of the United States in the ports of Ontario referred to.

It is stated in the report of the minister of customs that by the law of Canada the governor in council may, from time to time, throw open the privileges of the coasting trade of the Dominion to the ships or vessels of any foreign country in which British ships are admitted to the coasting trade, and it is also stated that the Canadian government desires "the adoption of a more liberal policy by both countries in relation to coasting, in order that the restrictions to trade in the inland waters of Canada and the United States may be removed, and the Dominion placed in a position to carry out fully the provisions of the section of the coasting law" referred to.

In view of this statement, it is proper to observe that the present question is not understood by this Department to involve a claim that American vessels should be admitted to any privilege of the coasting trade of Canada.

The allegation is that vessels of Canada licensed for the coasting trade of that country are also given advantages over vessels of the United States in the trade between this country and the Dominion. It is not seen that this allegation is answered by saying that vessels of the United States may be admitted to the coasting trade of Canada and thereby secure equality of treatment with Canadian vessels in trade with the United States if the United States will throw open its coasting trade to British vessels.

It seems to the Department that the direct and proper remedy for the present inequality of treatment is to be found in the Dominion act cited by the minister of customs, in which the fees now in question are imposed, but in which it is also provided that the governor in council may reduce or re-adjust them.

I have, etc.,

T. F. BAYARD.

No. 567.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, March 27, 1887.

MY DEAR SIR LIONEL: With reference to the correspondence which has heretofore taken place between this Department and your legation relative to the establishment of a reciprocal arrangement between this Government and that of Her Britannic Majesty for rendering aid to vessels wrecked in the waters between this country and Canada upon the terms proposed by the act of Congress of the 19th of June, 1878, I beg to inform you, in view of the fact that a bill is now pending in the Canadian parliament relative to this subject, that the President is prepared to issue the proclamation contemplated by the act of June 19, 1878, so soon as he shall be officially notified of the readiness of Her Majesty's Government to accept the reciprocal arrangement tendered by the act of Congress in question.

I am, etc.,

T. F. BAYARD.

No. 568.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *April* 3, 1888. (Received April 3.)

SIR: With reference to your note of the 21st of March I have the honor to inform you that Her Majesty's Government will be glad that Mr. White should attend the sugar conference upon the conditions therein stated, and that they express their hope that the United States Government may ultimately see their way to joining the convention.

I have, etc.,

L. S. SACKVILLE WEST.

No. 569.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, April 11, 1888.

SIR: With reference to your note of the 19th ultimo, submitting for the consideration of this Government certain correspondence on the subject of a concession granted by the Porte for the erection and maintenance of thirty lights in the Red Sea, etc., and inquiring whether this Government is prepared to agree to the Turkish proposals, I have the honor to inform you in reply that the competent authorities of this Government are not in favor of accepting the proposals in question, for the reasons set forth in the inclosed copy of a report of the chairman of the Light-House Board.

I have, etc.,

T. F. BAYARD.

[Inclosure.]

Vice-Admiral Rowan to Mr. Fairchild.

[Extract.]

TREASURY DEPARTMENT, OFFICE LIGHT-HOUSE BOARD,
Washington, April 3, 1888.

SIR: The Board has the honor to acknowledge the receipt of Department letter, dated April 2, 1888, transmitting a letter from the State Department, dated March 30, 1888, with its inclosure, a note from the British minister at this capital, asking the views of this Government as to a proposal made by the Government of Turkey as to the erection and maintenance of thirty lights in the Red Sea, on the coast of Arabia, and in the Persian Gulf. This Government is asked as to whether the Turkish proposals should, in its opinion, be agreed to, and if not as to what lights its trade requires, and what dues this Government is prepared to pay for them.

In reply, the Board begs leave to say that our trade in those waters is exceedingly small. It appears from the current report of the Commissioner of Navigation (see page 207) that but three American vessels used the Suez canal during the year 1885, and it is surmised that a part of these were naval vessels.

From this it would appear that the trade of the United States, at least at present, requires few, if any lights in those waters.

It has been the policy of this Government to exact no light dues for vessels entering its ports. The stand was taken in the early days that civilization required that America should, by her Light-House Establishment, her harbor improvements, her Coast Survey, and her Life-Saving Service, do what she could as a duty to humanity at large to insure safety to those who sought her shores. No reason is seen by the Board for changing the policy at this day.

Now the United States maintains 914 light-houses, 23 light-ships, 77 steam or hot-air fog-signals, 140 clock-work fog-signals, 361 day beacons, 3,886 buoys of all kinds, on its 9,959 miles of its ocean, gulf, and lake coast-line, besides its 1,107 stake lights on its long line of rivers, at a cost, last year, of $2,597,400, without mentioning the cost of their establishment.

This Government has been restive under the claim of other Governments that its commerce should pay light dues. How much has been paid by American ships for light dues it is hard to say. But it was stated by Mr. Abbott Lawrence, our minister to England in 1851, in his discussion with Lord Palmerston, that in the previous three years the light dues collected by Great Britain amounted to between £400,000 and £500,000, and that the United States had paid one-fourteenth of all. This would make our payment, say, $160,000 for that year. As an instance it may be well to state that the American Steamship Line of Philadelphia paid as light dues on its four steamers during the years 1875, 1876, and 1877, $36,000, being at the rate of $250 per voyage for each of the one hundred and forty-six voyages made by them; but the amount paid directly as light dues is only a small proportion of what has been paid indirectly.

This Government has from time to time made efforts to extinguish the light dues paid in foreign countries by its commerce. It has, from time to time, represented to the British Government the impropriety of these exactions, and it has always been listened to with respectful consideration, but has been put off with promises that the matter shall receive further and favorable attention in the future. It has been more successful with other countries.

Under the treaty of Washington, of April 11, 1857, it was agreed that $393,011 be paid to Denmark to extinguish what were known as sound dues.

Under the treaty of Berlin, of 1861, it was agreed that about $36,000 should be paid to Hanover to extinguish what were known as the stade dues theretofore levied on our trade on the Elbe River.

Under the treaty with the Belgians, made at Brussels July 20, 1863, it was agreed that the United States should participate in the benefits of the treaty made on April 19, 1839, between the King of the Belgians and the King of the Netherlands, by which it was agreed that $550,000 should be paid to the King of the Netherlands in annual installments in return for the extinguishment of the Scheldt dues. Of this sum the United States agreed to pay its proper share, and doubtless the payment to Belgium of $61,584 mentioned in the disbursement for 1872 for the extinguishment of the Scheldt dues closes the account. While the dues thus extinguished were of various kinds, light dues in each case entered into them as one of their items, and the Governments to which the dues were paid bound themselves by the treaties requiring their payment to keep the lights and aids to navigation in good order thereafter.

In conclusion, the Board begs leave to say that it is of opinion that it should be

the policy of this country to refrain from entering into any treaties by which it should be required to pay any further light dues, and also that it would be the part of wisdom for this country to take all proper measures to have the light dues now exacted against its commerce by any Government extinguished as soon as practicable.

I am, etc.,

S. C. ROWAN,
Vice-Admiral, U. S. Navy, Chairman.

No. 570.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *April* 12, 1888. (Received April 13.)

SIR: I have the honor to communicate to you herewith the inclosed copy of a minute in council, which was passed on the 4th instant by the privy council of Canada, authorizing the addition to the free list of the articles therein specified.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council on the 4th April, 1888.

The committee of the privy council has had under consideration a dispatch dated March 21, 1888, from Her Majesty's minister at Washington, transmitting copy of a dispatch which he had addressed to the Marquis of Salisbury relative to action on the part of the Canadian Government, which it is sought to obtain under the Canadian statute (42 Vic., chap. 15, sec. 6), which provides that certain articles may be admitted into Canada free of duty whenever it appears to the satisfaction of the governor in council that similar articles from Canada may be imported into the United States free of duty.

The minister of finance, to whom the dispatch and inclosure were referred, observes that it appears therefrom that the under secretary of state of the United States had informed Sir L. S. Sackville West that the Department had lately had under consideration the Canadian statute above mentioned, with the view of obtaining, if possible, the application of its provisions to certain commodities recently placed upon the free list of imports entering the United States, but still subject to duty when entering the Dominion of Canada; that he had sent Sir L. S. Sackville West a memorandum on the subject, and had asked Sir L. West if he thought the Dominion Government could be induced to take action in the matter, to which Sir L. West replied that he would submit the memorandum to Her Majesty's Government.

The memorandum inclosed is as follows:

MEMORANDUM.

The tariff act of 3d March, 1883, puts in the free list:—

I. Fruits, green, ripe, or dried, not especially enumerated or provided for in the said act, 22 Statutes, p. 519.

II. Plants, trees, shrubs, and vines of all kinds, and seeds of all kinds except medicinal seeds not specially enumerated or provided for in said act, 22 Statutes, p. 520.

For exceptions see titles "Fruits" and "Seeds" in Heyl's Import Duties, 1887, Part III, pages 32 and 79.

The Canadian statute of 42 Vic., chap. 15, section 6 (Revised Statutes of Canada, 1886, vol. 1, chap. 33, sec. 9) provides that green fruits, seeds of all kinds, plants, trees, and shrubs may be admitted into Canada free of duty upon proclamation by governor in council, which may be issued whenever it appears to his satisfaction that similar articles from Canada may be imported into the United States free of duty.

In view of the fact that the above-named articles are admitted free of duty (excepting a few kinds of seeds) into the United States, it is thought that the same

should be admitted into Canada free of duty when exported thither from the United States.

The minister recommends that, as the attention of the governor in council has been called to the provision of the sixth section of the Canadian tariff act, 42 Vic., cap. 15, above referred to (Rev. Stat. Canada, cap. 33, sec. 9), and as it has been shown to his satisfaction that the articles hereinafter specified are admitted into the United States free of customs duty, a proclamation of the governor in council be issued placing the same upon the list of articles which may be imported into Canada free of customs duty, viz:

Green fruits, viz: Bananas, olives, pine-apples, plaintains, tamarinds, apples, blackberries, gooseberries, raspberries, strawberries, cherries, cranberries, peaches, plums, quinces, apricots, lichi fruit, mangoes, and melons.

Seeds, viz: Anise, anise-star, canary, caraway, coriander (crude), cardamon (crude), chia, cinnamon (crude), fenugreek (crude), fennel (crude), jute, mustard (brown or white), sugar-beet, seeds of fruit trees, sesame plants.

Trees and shrubs, viz: Apple, peach, pear, plum, cherry, quince, and all other fruit trees; gooseberry, raspberry, blackberry, currant, and rose bushes; grape-vines, shade, lawn, and ornamental trees, shrubs, and plants.

The committee advise that a proclamation do issue, as recommended by the minister of finance.

The committee further advise that your excellency be moved to transmit copies of the proclamation as well as copies of this minute to the right honorable the secretary for the colonies, and also to Her Majesty's minister at Washington.

All which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk Privy Council.

No. 571.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *April* 17, 1888.

With reference to the supplementary convention concluded at Washington on the 6th of December, 1884, between the Governments of the United States and Hawaii, Her Majesty's Government call attention to the treaty of 10th of July, 1851, between Great Britain and Hawaii, which provides for access of British ships of war to all harbors, rivers, and places within the territories of Hawaii, and to anchor there and refit.

Her Majesty's Government have never sought any exclusive advantages under this treaty, but in view of the provisions of the above-mentioned convention respecting Pearl River Harbor, they have reminded the Hawaiian Government of this treaty, and inform the United States Government that they have done so.

No. 572.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, April 19, 1888.

The Secretary of State of the United States has the honor to acknowledge the receipt of the *note verbale*, dated the 17th instant, and left at this Department on that day by the Hon. Sir L. S. Sackville

West, in relation to the stipulations of the convention of December 6, 1884, between the United States and Hawaii, concerning Pearl River Harbor.

The Secretary of State has the honor to refer to his personal note on this subject to Sir Lionel West, under date of the 15th of February last.

No. 573.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *April* 20, 1888. (Received April 21.)

SIR: With reference to my note of the 12th instant, I have the honor to forward to you copy of a minute of the privy council of Canada, recommending that, as certain errors had occurred in the proclamation issued on the 4th of April, the said proclamation be canceled and another issued in place thereof, substituting the list of articles therein specified as being those which may, under the provisions of the ninth section of the act, chapter 33, of the Revised Statutes of Canada, be, from and after the 4th April, 1888, imported into Canada free of customs duties. I inclose copy of the Canada Gazette dated the 14th instant, in which the proclamation is published.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

Report of committee of privy council of Canada, approved by his excellency, the governor-general in council on the 13th April, 1888.

On a memorandum dated 12th April, 1888, from the minister of finance, recommending that, as various errors have been discovered in the proclamation issued on the 4th day of April, 1888, which require amendment, the said proclamation be canceled and another proclamation issued in lieu thereof, substituting the following list of articles as being those which may, under the provisions of the ninth section of the act, chapter 33 of the Revised Statutes, entitled "An act respecting the duties of customs," be, from and after the 4th day of April, 1888, imported into Canada free of customs duties, namely: Green fruits and edible berries in their natural condition, viz: Apples, apricots, bananas, cherries, olives, peaches, pine-apples, plaintains, plums, pomegranates, quinces, and shaddocks, blackberries, cranberries, gooseberries, raspberries, and strawberries.

Seeds, viz, clover, grass and flower, canary, chia, cotton, jute, mustard (brown and white), sesame, sugar-beet, sugar-cane seed, and seeds of fruit and forest trees not edible.

Seeds, aromatic, which are not edible and are in a crude state, and not advanced in value or condition by refining or grinding or by any other process of manufacture (in addition to those already on the free list), namely: Anise-star, caraway, cummin seed, and Tonquin beans.

Trees, shrubs, and plants, viz: Apple, cherry, peach, pear, plum, quince, and all other fruit trees, and the seedling stock of the same.

Blackberry, currant, gooseberry, raspberry, and rose bushes, grape and strawberry vines.

Shade, lawn, and ornamental trees, shrubs, and plants.

Vegetables, viz: Citrons, mangoes, melons, and yams.

The committee concur in the foregoing recommendation, and submit the same for your excellency's approval.

[Inclosure 2.]

[L. S.] LANSDOWNE, CANADA.

Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, defender of the faith, &c., &c., &c.

To all to whom these presents shall come, or whom the same may in any wise concern, greeting:

A PROCLAMATION.

Robert Sedgwick, deputy of the minister of justice, Canada.

Whereas in and by the Revised Statutes of Canada, chapter thirty-three, intituled "An act respecting the duties of customs," it is amongst other things in effect enacted that any or all of the following things, that is to say, animals of all kinds, green fruit, hay, straw, bran, seeds of all kinds, vegetables (including potatoes and other roots), plants, trees, and shrubs, coal and coke, salt, hops, wheat, peas and beans, barley, rye, oats, Indian corn, buckwheat and all other grain, flour of wheat and flour of rye, Indian meal and oatmeal, and flour or meal of any other grain, butter, cheese, fish (salted or smoked), lard, tallow, meats (fresh, salted, or smoked), and lumber may be imported into Canada free of duty, or at a less rate of duty than is provided by this act, upon proclamation of the governor in council, which may be issued whenever it appears to his satisfaction that similar articles from Canada may be imported into the United States free of duty, or at a rate of duty not exceeding that payable on the same under such proclamation when imported into Canada.

And whereas by our certain letters patent under the great seal of Canada, issued in pursuance of the said act, and bearing date the fourth day of April instant, and which were duly published in the *Canada Gazette* in the issue thereof of the seventh day of April instant, we did proclaim and declare that certain articles in our said letters patent specified might be imported into Canada from the United States free of duty;

And whereas certain errors occurred in our said letters patent and it is desirable to supersede the same and to substitute therefor the provisions herein contained;

And whereas it has been shown to the satisfaction of our governor in council that the articles hereinafter mentioned may now be imported into the United States from Canada free of duty:

Now know ye that by and with the advice of our privy council for Canada, we do hereby cancel, annul, and supersede our said hereinbefore in part recited letters patent, and under and by virtue of the powers vested in us by the said act, and by and with such advice as aforesaid, we do, by these presents, proclaim and declare that the following articles, that is to say:

Green fruits and edible berries, in their natural condition, viz: Apples, apricots, bananas, cherries, olives, peaches, pineapples, plantains, plums, pomegranates, quinces, and shaddocks.

Blackberries, cranberries, gooseberries, raspberries, and strawberries.

Seeds, viz: Clover, grass and flower, canary, chia, cotton, jute, mustard (brown and white), sesame, sugar-beet, sugar-cane seed, and seeds of fruit and forest trees not edible.

Seeds aromatic, which are not edible and are in a crude state, and not advanced in value or condition by refining or grinding or by any other process of manufacture (in addition to those already on the free list) viz: Anise-star, caraway, cummin seed, and Tonquin beans.

Trees, shrubs, and plants, viz: Apple, cherry, peach, pear, plum, quince, and all other fruit trees and the seedling stock of the same. Blackberry, currant, gooseberry, raspberry, and rose-bushes, grape, and strawberry vines.

Shade, lawn, and ornamental trees, shrubs, and plants.

Vegetables, viz: Citrons, mangoes, melons, and yams, may hereafter until otherwise provided be imported into Canada free of duty.

And we do further, by and with the like advice, proclaim and declare that these, our letters patent, shall have and take effect from and after the fourth day of April instant.

All of which our loving subjects and all others whom these presents may concern, are hereby required to take notice and to govern themselves accordingly.

In testimony whereof, we have caused these our letters to be made patent and the great seal of Canada to be hereunto affixed. Witness, our right trusty and entirely-beloved cousin, the Most Honorable Sir Henry Charles Keith Petty-Fitzmaurice, Marquis of Lansdowne, in the county of Somerset, Earl of Wycombe, of Chipping Wycombe in the county of Bucks, Viscount Calne and Calnstone in the county of Wilts, and Lord Wycombe, Baron of Chipping Wycombe, in the county of Bucks, in

the peerage of Great Britain; Earl of Kerry and Earl of Shelburne, Viscount Clanmaurice and Fitzmaurice, Baron of Kerry, Lixnaw, and Dunkerron, in the peerage of Ireland; Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George; Governor-General of Canada, and Vice-Admiral of the same.

At our Government House in our city of Ottawa, this thirteenth day of April, in the year of our Lord one thousand eight hundred and eighty-eight, and in the fifty-first year of our reign.

By command.

J. A. CHAPLEAU,
Secretary of State.

No. 574.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *April* 25, 1888. (Received April 26.)

SIR: In accordance with instructions which I have received from the Marquis of Salisbury, I have the honor to communicate to you copy of a dispatch from the governor-general of Canada to Her Majesty's secretary of state for the colonies, together with copy of a minute of the privy council on the subject of the seizure of the United States fishing vessels *David J. Adams* and *Ella M. Doughty.*

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

Lord Landsdowne to Lord Knutsford.

GOVERNMENT HOUSE,
Ottawa, March 21, 1888.

MY LORD: I have the honor to transmit to you a copy of an approved minute of a committee of the privy council, concurring in a recommendation of my minister of justice, who has advised that for the reasons stated in his report the proceedings against the United States fishing vessels *D. J. Adams* and *E. M. Doughty*, libeled in the vice-admiralty court at Halifax for violation of the statutes relating to fishing by foreign vessels, be discontinued upon the understanding that the owners or their representatives give an undertaking which will prevent such a step being made the basis for a claim for damages or expenses.

I have, etc.,

LANSDOWNE.

[Inclosure 2.]

Report of a committee of the privy council approved by his excellency the governor-general in council on 8th March, 1888.

On a report dated 24th February, 1888, from the minister of justice submitting for your excellency's consideration the cases of the United States fishing-vessels *David J. Adams* and *E. M. Doughty*, the minister of justice observes that these vessels were libeled in the vice-admiralty court at Halifax for violation of the statutes relating to "fishing by foreign vessels," and relating to the convention between Great Britain and the United States of October 20, 1888.

The proceedings were understood by the counsel on the part of the Crown to be closed early in the year 1886, but an application was made by the counsel for the defense for a protracted adjournment in order that further evidence might be taken.

That the effect of the adjournment which was granted on this application was that the causes were not heard until June, 1887, when they were heard by the Hon. J. McDonald, judge of the vice-admiralty court for the Province of Nova Scotia.

Judgment was reserved and has not yet been delivered.

The minister desires to remind your excellency that these proceedings were taken for the purpose of asserting and establishing the right of Canada, under the convention of 1818, to prevent the purchase of bait and other fishing supplies in Canadian ports by United States fishing vessels and to prevent such vessels from entering such ports for the shipping of crews.

As, however, the result of the negotiations recently concluded at Washington has been to show that no further difference of opinion between the two Governments upon the points is to be apprehended, it appears to the minister of justice unnecessary that a judicial decision should be sought to affirm the right above mentioned.

The minister therefore recommends that he be authorized to discontinue the proceedings against the vessels above mentioned, provided the owners or their representatives give an undertaking which will prevent such a step being made the basis for a claim for damages or expenses.

The committee, concurring in the recommendation of the minister of justice, advise that a copy of this minute be forwarded to the secretary of state for the colonies in order that the reasons for this action above recommended may be in possession of Her Majesty's Government.

No. 575.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *May* 2, 1888. (Received May 3.)

SIR: Under date of the 21st April you inclosed to me copy of a telegram which had been received from the United States consular agent at St. Pierre and Miquelon (a French possession) stating that ten American schooners were in that port which had been prevented from getting bait in Newfoundland, and that they were willing to pay the $1.50 per ton in order to obtain it. You requested me at the same time to ascertain by telegraph whether licenses could be obtained under the *modus vivendi* which provided for their issue by the act of the British plenipotentiaries. I have now the honor to inclose to you herewith transcript of a telegram which I have received from the Marquis of Salisbury to the effect that the Government of Newfoundland have not forbidden the sale of bait to American vessels, that several have been already supplied, and that licenses therefore are unnecessary.

Trusting that this information will be found satisfactory, I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Transcript of telegram from Marquis of Salisbury to Sir L. West, dated May 1, 1888.

The Government of Newfoundland have not forbidden sale of bait to American vessels; several have been already supplied and licenses therefore are unnecessary.

No. 576.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, May 4, 1888,

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, communicating a copy of Lord Salisbury's telegram to you

of the 1st instant, to the effect that the Government of Newfoundland has not forbidden the sale of bait to American vessels, that several have already been supplied, and that licenses are therefore unnecessary.

I beg to renew the expression of satisfaction contained in my personal note of the 1st instant, and trust the amicable disposition manifested may be productive of good results to the relations of the two countries.

I have, etc.,

T. F. BAYARD.

No. 577.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *May* 7, 1884. (Received May 9.)

SIR: With reference to your note of February 14 last, I have the honor to inclose to you herewith copies of explanatory letters furnished by the owners of the British steamer *North Erin*, respecting the complaint made by the United States authorities against the master of that ship, and which the Marquis of Salisbury has requested me to communicate to you.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure 1.]

Messrs. Roberts & Sons to the Assistant Secretary of the Marine Department of the Board of Trade.

BALTIC CHAMBERS, 75 QUAYSIDE,
Newcastle-on-Tyne, March 27, 1888.

DEAR SIR: We duly received your letter of the 22d instant forwarding a complaint from the United States Government against Captain Owens, of our steam-ship *North Erin*. This matter was thoroughly investigated by us on the ship's arrival in Liverpool, and we inclose copy of a letter forwarded by us through the United States consul in Liverpool to the American authorities; this letter will explain the course we took in the matter. We are convinced that if the judge had known the facts of the case he would not have granted the order for the arrest of the steamer.

The fact with respect to the incident of the marshal as stated in the copy which you sent to us, we believe to be totally incorrect. Captain Owens assures us that the man who came alongside his ship in the pilot yawl was not in uniform, that he never declared who he was nor what he wanted. All the ship's crew and also the American pilot confirm the captain's statement on this point. In the statement made by the pilot to the American consul in Liverpool, we believe he distinctly states that the deputy of the United States marshal when he was alongside the steamer in the yawl did not declare to him or anybody else on board the ship who he was.

The statement that the marshal fell some 20 or 30 feet is absolutely untrue. The ship's rail would not be more than 10 feet out of the water, but as a matter of fact the man did not fall at all, neither was he pushed from the side of the vessel.

These statements are evidently made by some one who bears malice towards Captain Owens and with a view of doing him injury.

Captain Owens has been in command of our ships and steamers for the last seventeen years and during that time we have found him to be a steady, sober (having never tasted liquor in his life), and a thoroughly reliable and cautious man. We believe his version of the affair as confirmed by the crew and the pilot, and we do not blame him in the slightest degree for what occurred. Captain Owens left the *North Erin* to be married and is now in Paris, on his honeymoon. A letter addressed to 28 Windsor Place, Cardiff, would probably be forwarded to him.

We are, etc.,

HUGH ROBERTS & SONS.

We also inclose a cutting from the Norfolk Evening Telegram of March 6, 1888, which goes somewhat to confirm the captain's story, as the marshal therein admits that he told no one belonging to the ship who he was.

Please return the newspaper cutting after perusal.

[Inclosure 2.]

Messrs. Roberts & Sons to Mr. Russell.

NEWCASTLE-ON-TYNE,
March 26, 1888.

SIR: Our attention was drawn by a paragraph in one of the United States newspapers to an alleged attempt on the part of the master of our steam-ship *North Erin* to avoid the arrest of his ship after she had left West Point for Liverpool.

Immediately on arrival of the ship at Liverpool we investigated the circumstances, and the master has assured us that he was not aware that the boat from the pilot-cutter, which came alongside of his ship whilst she was under weigh, contained any officer of the United States courts, or that in proceeding on his voyage with his ship he was evading the service of any process from the courts; he states if he had been aware that the boat contained an officer to arrest his ship he would have at once submitted to the arrest.

We feel deeply that any apparent attempt should have been made by the master of our ship to evade the service of any process or to treat with apparent slight any order issued by a judge of one of the United States courts.

The act was unauthorized by us, and if we had known that any action had been commenced against the ship we would have instructed our agents to have given bail and obtained the release of the ship.

To show that we are most anxious to treat the courts of the United States with the respect to which they are entitled, we are willing to admit that the process of the court was served and to take such steps for defending the action as if process had been served in the usual manner. We shall feel personally greatly obliged if you will forward this letter to the proper authorities in the United States.

We are, sir, etc.,

HUGH ROBERTS & SONS.

[Inclosure 3.]

John Owens, late master of the steam-ship North Erin, to the assistant secretary of marine department, board of trade, Whitehall Gardens, London.

28 WINDSOR PLACE,
Cardiff, April 12, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 29th ultimo, together with a copy of a complaint against me from the Government of the United States, concerning my action whilst in command of the steam-ship *North Erin*, on the 2d of February last, off Cape Henry, Virginia.

I had strong reasons for refusing to sign the charterer's draft for the amount demanded, viz, $14,231, as they insisted on my signing their bills of lading with freight payable on weight delivered in Liverpool, instead of upon the same weight as that upon which they were calculating the freight for their draft, viz, the weight inserted in the bill of lading by themselves.

Fearing that the cargo might turn out at Liverpool short of the weight indicated by the bills of lading, whereby the ship would lose freight, I objected to sign the draft unless charterers would undertake to make the chartered amount good to the owners of the ship, as their bill of lading gave the ship no lien on the cargo for anything, the charterer's responsibility, conformably with the conditions of the charter party, having ceased as soon as the cargo was shipped.

The clause in the charter party covering this latter point was as follows:

"Charterer's responsibility under this charter to cease on cargo being shipped; but the owners or master to have an absolute charge and lien upon the cargo and goods laden for the recovery and payment of all freight, dead freight, and demurrage." This proviso they refused to insert in the bills of lading, and they would not allow me to add above my signature the words, "and all other conditions as per charter party," or to make any reference whatever to the terms of the charter party, but demanded that their bills of lading should be signed as presented.

I signed a draft for the amount of disbursements as required by the terms of the charter-party. The draft for the difference in freight bound the freight, ship, and owners for its payment whilst the charter-party gave a lien on the freight alone. Messrs. Reynolds Brothers gave me all the documents necessary to enable me to sail, viz, the ship's register, articles, and customs to the clearances; and being put in possession of these papers I had therefore no reason to suspect that anyone would come to detain the ship after leaving West Point. I remained at West Point forty-eight hours after loading for the purpose of getting a settlement, which afforded them ample time to stop the ship. After failing in my object, I told them that I should protest against signing the draft and proceed to sea. I went to a notary and made a protest, handed the same to Messrs. Reynolds Brothers, and thereafter sailed, the steamer being in charge of Mr. W. Face, pilot for the capes, which was reached about 7 p. m., and where the ship was stopped by order of the pilot, for the purpose of allowing him to enter his own boat. The engines were never moved after the pilot stopped them until after the ladder was cast off.

When the pilot-boat was coming alongside a man from it called out, "I have a paper for your captain." To this announcement I replied, "I want no paper, I have no time." Finding that the man was coming up the ladder I went to the gangway and reminded him that I had no time; the only words uttered by him were, "I want to see the captain," which request he repeated, and I told him to go down, and I also warned him that if he did not move to allow the pilot (who was standing on the rail) to get off, I would be compelled to lower the ladder with him, whereupon as he did not move, the ladder was lowered until the man reached the rail of the small boat and consequently was in no danger whatever. This man wore no uniform whereby one might recognize his official position, nor did he mention his business, of which I was totally unaware. Had he indicated what the nature of his errand was, or who he was, or had he been in uniform or come in some revenue-cutter or other obviously official boat, I would have at once submitted to the warrant. No words were exchanged between him and myself, excepting what has been related above. No force whatever was employed other than that indicated by the lowering of the ladder. The man made only an attempt to board and he did not have his hands on the ship's rail, and consequently it is untrue that he was pushed from the vessel. The height of the rail has been stated inaccurately, as the steamer's rail was not more than 10 feet from the water where the ladder was hung. Consequently to say the man fell 20 or 30 feet is obviously untrue, as from this 10 feet at most must be deducted the height of the man.

Having been accustomed to the American trade for many years and knowing that I should be likely to return to that country again, I would never have wittingly interfered to prevent the law of the United States taking its due course. Had the person, whom I am now informed was a deputy marshal of the United States, advised me of his official capacity or what his business was, I should have submitted to him at once. I can only add that I most deeply regret what has taken place and especially any apparent slight or contempt of the United States courts on my part. If I am in default in any way I am willing and anxious to make ample apology.

I have, etc.,

JOHN OWENS.

[Inclosure 4.—From Norfolk Evening Telegram, March 6, 1888.]

The "North Erin"—Her captain pleads ignorance of the marshal's presence—The arrival of Capt. George Face from Liverpool to-day and the ship's ladder in the United States court-room here would seem to point to a different conclusion.

Our readers will recall the *North Erin* incident of the early part of February, in which United States Deputy Marshal J. J. Sullivan, of this city, who had gone down to the capes to attach said vessel (a British merchantman), was thrown off the side of the ship into a yawl alongside and narrowly escaped with his life. A libel suit was about to be entered against the ship by Messrs. Reynolds Brothers, of Norfolk, because her captain would not sign their draft for the insurance and freight on cotton with which they had loaded the *North Erin*.

They applied to Judge Hughes and he dispatched Mr. Sullivan down in a tug to overhaul the vessel before she passed out of the capes. On returning to the city Mr. S. reported that he had attempted to board the ship, but that the ladder had been cut and he thrown off, the vessel in the meantime making her escape and carrying off the Virginia pilot, Capt. George Face, who had brought her down the York River from West Point.

United States Marshal Thomas W. Scott has received a letter from the American

consulate at Liverpool, inclosing the following letter from the owners of the *North Erin:*

NEWCASTLE-ON-TYNE, *February* 23, 1888.

SIR: Our attention was drawn by a paragraph in one of the United States newspapers to an alleged attempt on the part of the master of our steam-ship *North Erin* to avoid the arrest of his ship after she had left West Point for Liverpool.

Immediately on arrival of the ship at Liverpool we investigated the circumstances, and the master has assured us that he was not aware that the boat from the pilot-cutter, which came alongside of his ship whilst she was under weigh, contained any officer of the United States courts, or that in proceeding on his voyage with his ship he was evading the service of any process from the courts. He states if he had been aware that the boat contained an officer to arrest his ship he would have at once submitted to the arrest.

We feel deeply that any apparent attempt should have been made by the master of our ship to evade the service of any process or to treat with apparent slight any order issued by a judge of one of the United States courts. The act was unauthorized by us, and if we had known that any action had been commenced against the ship we would have instructed our agents to have given bail and obtained the release of the ship. To show that we are most anxious to treat the courts of the United States with the respect to which they are entitled, we are willing to admit that the process of the court was served, and to take such steps for defending the action as if process had been served in the usual manner.

We shall feel personally greatly obliged if you will forward this letter to the proper authorities in the United States.

We are, etc.,

HUGH ROBERTS & SONS.

CHARLES T. RUSSELL, Esq.,
United States Consul, Liverpool.

The carrying off of Captain Face, the pilot, would seem to indicate that the departure of the *North Erin* was somewhat unusual, and it does not look probable that his being carried off and Mr. Sullivan and the ladder dropping from the ship's side was all accidental.

[Mr. Sullivan has the ladder in the United States court-room here.]

CAPTAIN FACE'S ARRIVAL.

Capt. George Face, above referred to, arrived home from Liverpool via New York this morning, and went at once to his home in Atlantic City, being anxious, after his enforced absence of a month, to get back to his family. During the day the Telegram sent a reporter over to Atlantic City to interview him; was found at his cozy, comfortable home in that suburb, but was entirely too full of "getting home" to talk about the trip. Captain F. is a robust, heavy man, every inch a sailor, and when the Telegram met him he had much the appearance of having just gotten home after a three years' cruise. He was surrounded by his children, and it seemed indeed a gladsome time. He had too much to tell them to tell the Telegram anything, except that he had not suffered by the trip. Judging from his good nature, and the prime physical condition in which we found him, we should say that he had had a royal time. Beside, there was something he promised to tell us later, which he wanted the people across the water to see, and we think he wanted to say how well they had treated him. He would not talk about the captain of the *North Erin*, saying that "that is his (the captain of the *North Erin's*) business and I do not care to interfere."

Finding that he was so absorbed in his family, we only intruded upon him for a few minutes and retired.

NOTES.

Deputy Marshal Sullivan was seen again by the Telegram to-day in regard to the matter, and he is of the opinion that the officers of the ship suspected who he was when he was first seen to approach the vessel; says Pilot Face was standing beside the rail of the ship when he, Sullivan, started up; that he told Mr. Face who he was, but didn't tell anyone else. All others about the side of the ship looked like sailors.

United States Marshal Scott will turn the above letter over to the district attorney, who will forward it to Washington.

No. 578.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *May* 21, 1888. (Received May 22.)

SIR: I am informed by the Marquis of Salisbury that a number of Indians from Metlakahtla, in British Columbia, under the leadership of a Mr. William Duncan, formerly a lay missionary of the Church Missionary Society, have withdrawn from that point, and that from information received have settled within the territory of Alaska.

It is presumed that such immigration and settlement is not contrary to the immigration laws of the United States.

I have, etc.,

L. S. SACKVILLE WEST.

No. 579.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *May* 30, 1888. (Received May 31.)

SIR: I am instructed by the Marquis of Salisbury to communicate to you the inclosed form of license which the Dominion Government proposes to issue for American fishing vessels under the *modus vivendi*, which has been put in operation.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

LICENSE TO UNITED STATES FISHING VESSELS.

——— ———, of the United States fishing vessels ———, and tons register, of ———, having paid to the undersigned collector of customs at the port of ——— the sum of ———, the privilege is hereby granted to said fishing vessel to enter the bays and harbors of the Atlantic coasts of Canada and Newfoundland for the purchase of bait, ice, seines, lines, and all other supplies and outfits and the transshipment of catch and shipping of crews.

This license shall continue in force for one year from the date thereof, and is issued in pursuance of the act of the Parliament of Canada, chapter —, of ——— 1888, entitled "An act respecting a certain treaty between Her Britannic Majesty and the President of the United States," and in pursuance of agreement between the Government of Canada and the Government of Newfoundland.

This license, while conferring the above-mentioned privileges, does not dispense with a due observance by the holder, or any other person, of the laws of Canada and of Newfoundland.

Dated this ——— day of ———, A. D. 1888.

———, ———,
Minister of Marine and Fisheries.

———, ———,
Collector of Customs at the Port of ———.

Name, ———.
Master or owner, ——— ———.

No. 580.

Mr. Edwardes to Mr. Bayard.

WASHINGTON, *June* 7, 1888. (Received June 7.)

SIR: Her Majesty's Government have received information from the governor of Newfoundland that certain United States fishing vessels, in contravention of the Newfoundland bait act of 1887, have, without

having taken out a license under the *modus vivendi*, purchased bait in Newfoundland waters, and have sold the same to the French fishermen at St. Pierre.

Her Majesty's Government have been informed at the same time that the United States consul at St. Pierre is reported to have instigated this breach of the colonial act.

I have now the honor, in obedience to the instructions which I have received by telegraph from the Marquis of Salisbury, to bring these facts to the knowledge of the United States Government and to ask that the United States consul may be instructed to abstain from all action of the nature referred to.

I have, etc.,

H. G. EDWARDES.

No. 581.

Mr. Bayard to Mr. Edwardes.

DEPARTMENT OF STATE,
Washington, June 8, 1888.

SIR: I had the honor to receive yesterday afternoon your note of yesterday's date, stating that Her Majesty's Government had received information from the governor of Newfoundland that certain United States fishing vessels, in contravention of the Newfoundland bait act of 1887, have, without having taken out a license under the *modus vivendi*, purchased bait in Newfoundland waters, and afterwards sold the same to French fishermen at St. Pierre, and that the American consul at that place is reported to have instigated this breach of the colonial law.

I at once telegraphed the consular agent of the United States at St. Pierre, informing him of the charges against him and enjoining him to abstain from such action.

I have, etc.,

T. F. BAYARD.

No. 582.

Mr. Bayard to Mr. Edwardes.

DEPARTMENT OF STATE,
Washington, June 8, 1888.

SIR: Referring to my reply of the 25th ultimo to Sir Lionel West's note of the 21st of May, 1888, relative to the immigration of certain Indians from British Columbia into Alaska Territory, I have the honor to transmit to you herewith a copy of a letter from the Secretary of the Treasury holding that the immigration referred to was not a violation of the laws of the United States.

I have, etc.,

T. F. BAYARD.

[Inclosure.]

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT,
Washington, May 28, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 25th instant, inclosing copy of a note to your Department from the British minister, dated the 21st

instant, inquiring whether the immigration of certain Indians from British Columbia into Alaska is contrary to the immigration laws of the United States.

Section 1 of the "act to regulate immigration," approved August 3, 1882, applies only to such passengers "who shall come by steam or sail vessel from a foreign port to any port within the United States." And section 22 of the so-called "shipping act," approved June 26, 1884, in effect abolishes the capitation tax on immigrants from contiguous foreign territory.

It would therefore appear that the immigration referred to was not a violation of the immigrant laws of the United States.

I am, etc.,

C. S. FAIRCHILD,
Secretary.

No. 583.

Mr. Bayard to Mr. Edwardes.

DEPARTMENT OF STATE,
Washington, June 8, 1888.

SIR: Referring to your note of yesterday and my reply of this morning in relation to the information received by Lord Salisbury, to the effect that the consular officer of the United States at St. Pierre had instigated breaches of the Newfoundland bait laws, I beg leave to inform you that I have just received a telegram from the officer referred to, denying such charge and stating his advice to American fishing vessels to comply faithfully with the local laws.

I have, etc.,

T. F. BAYARD.

No. 584.

Mr. Edwardes to Mr. Bayard.

WASHINGTON, *June* 9, 1888. (Received June 11.)

SIR: I have the honor to acknowledge the receipt of your note of yesterday's date, in which you are so good as to inform me that, in accordance with the request which, in obedience to my instruction, I made to you, you have telegraphed to the United States consular agent at St. Pierre to abstain from any action as that referred to in the matter of the purchase in Newfoundland waters, without license, by United States fishing vessels of bait and its subsequent sale to French fishermen.

In offering to you my thanks for this communication, which I have lost no time in forwarding to the Marquis of Salisbury,

I have, etc.,

H. G. EDWARDES.

No. 585.

Mr. Edwardes to Mr. Bayard.

JUNE 9, 1888. (Received June 11.)

SIR: I hasten to acknowledge the receipt of your note of yesterday's date in relation to the information received by Lord Salisbury to the effect that the consular officer of the United States at St. Pierre had

instigated breaches of the Newfoundland bait laws, by which you are good enough to inform me that you have received a telegram from the officer referred to denying such charge, and stating his advice to American fishing vessels to comply faithfully with the local laws.

In thanking you for this information, which I have not failed to transmit to the Marquis of Salisbury by telegraph,

I have, etc.,

H. G. EDWARDES.

No. 586.

Mr. Bayard to Mr. Edwardes.

DEPARTMENT OF STATE,
Washington, June 22, 1888.

SIR: I have the honor to bring to the attention of Her Majesty's Government the case of the American ship *Bridgewater*, which was seized by the customs authorities at Shelburne, Nova Scotia, on the 27th of July, 1887, and detained in custody until the 15th of the following October, a period of eighty-one days, when she was unconditionally released.

The facts in the case are that the *Bridgewater* cleared from St. John, New Brunswick, on the 1st of April, 1887, with a cargo of deals for Penarth Roads, Great Britain. On the 5th of the same month, having been disabled by a storm and extensively damaged, she put into Shelburne, Nova Scotia, for repairs, was surveyed and condemned and her cargo discharged.

In the mean time, however, Capt. John H. Allen, the agent for Mary Warren Allen, the owner of the vessel, having arrived, refused to accept the survey of condemnation and advertised the vessel for sale.

On the 8th of June the ship was put up at public sale, but as no bid was made or none that was acceptable she was bid in by Captain Allen as agent of the owner; and having been thus unable to effect a sale of the ship he proceeded to repair her.

The repairs were proceeding and, as is alleged, were nearly completed when, on the 27th of July, the vessel was seized by Collector Atwood, of Shelburne, for non-payment of duty as for goods entered and sold under the Dominion statute 46 Victoria, cap. 12, sections 41 and 60, which read as follows:

41. The person entering any goods inwards shall deliver to the collector or other proper officer an invoice of such goods, showing the place and date of purchase, and the name or style of the firm or person from whom the goods were purchased, and a full description thereof in detail, giving the quantity and value of each kind of goods so imported, and a bill of the entry thereof, in such form as shall be appointed by competent authority, fairly written or printed, or partly written and partly printed, and in duplicate, containing the name of the importer, and if imported by water, the name of the vessel and the master, and of the place to which bound and of the place, within the port, where the goods are to be unladen, and the description of the goods, and the marks and numbers and the contents of the packages, and the place from which the goods are imported, and of what country or place such goods are the growth, produce, or manufacture.

60. Goods derelict, flotsam, jetsam, or wreck, or landed or saved from any vessel, wrecked, stranded, or lost, brought or coming into Canada shall be subject to the same duties and regulations as goods of the like kind imported are subject to.

It is unnecessary for me to give a construction to these provisions in order to show that they could have no relation to the case of the

Bridgewater, a vessel compelled to enter in distress and undergo repairs by her owners, out of whose hands she had never passed up to the time of her seizure for non-payment of duties, because that such is the clear opinion of the Canadian authorities unmistakeably appears.

Captain Allen formally protested against the seizure of the ship, but without avail until the 16th of September, when the consul of the United States at Shelburne received from the acting minister of customs at Ottawa the following telegram:

> Allen can repair and take vessel away. If he requires Canadian register, will have to pay duty.
>
> A. W. McLELAN,
> *Acting Minister of Customs.*

On the 22d of September Collector Atwood offered to release the vessel on condition that her owner abandon all claim against the Canadian Government or its officials, for the seizure and detention. This, Captain Allen, acting for the owner, refused to do.

The vessel was not released till the 15th of October, and then unconditionally. No Canadian register was ever applied for or issued, and she sailed from Shelburne under American papers.

The owner has since presented a claim for damages by reason of the wrongful seizure and detention of the ship, amounting to something over $20,000, to the Government at Ottawa, but has failed to secure its recognition; and Captain Allen has been informed by the minister of customs that his principal has no redress in the courts against any of the officers of the Crown.

Should the facts as herein stated be ascertained to be correct (and there appears to be little room for doubt), it is hoped that the justice of the claim now presented will be recognized and proper compensation awarded.

I have not thought it necessary to enter into any elaborate argument in regard to the law of the case, as it appears to be admitted that there was no warrant for the seizure and detention of the *Bridgewater* under the customs laws of Canada, and since no government has more readily accorded or more consistently contended for the right of vessels in distress to seek shelter and repairs than that of Her Majesty.

I have, etc.,

T. F. BAYARD.

No. 587.

Mr. Bayard to Mr. Edwardes.

DEPARTMENT OF STATE,
Washington, July 2, 1888.

SIR: Referring to my reply of the 11th of April last, to Sir Lionel West's note of the 19th of March, 1888, relative to the proposed establishment by the Turkish Government of certain lights in the Red Sea and the Persian Gulf, I now have the honor to inform you that I have received a letter from the Secretary of the Navy on the subject, in which he expresses the opinion that it would be inexpedient for this Government to assent to the Turkish proposal.

My colleague, moreover, observes that apart from the general inexpediency of assenting in any new case to the imposition of light dues

upon passing vessels, the present proposal is open to specific objection in this, that out of the twelve coast lights proposed only four can be considered as in any sense necessary or desirable, namely, Jebel Tier (16), Zebayr (18), Abou Ail (21), and Mocha (23); secondly, the tolls which it is proposed to levy are excessive and apparently combine in one system of charges the maintenance of coast lights and harbor lights; and thirdly, no provision is made for the publication of accounts of light dues, or for any measures looking to their early reduction and ultimate abolition, but on the contrary it is provided in the concession that they are to continue in force for forty years after a certain number of lights shall have been erected.

The Secretary of the Navy is therefore of the opinion that the proposal in its present form would be extremely burdensome and should not be agreed to, but that this Government might safely assent to a properly guarded arrangement providing for the erection of the four above-mentioned lights, and for the collection of reasonable tolls for their maintenance, with the understanding that the tolls should cease at an early date.

I have, etc.,

T. F. BAYARD.

No. 588.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, July 21, 1888.

SIR: I have the honor to inclose herewith a copy of a letter from the Treasury Department, of the 10th instant, in relation to an alleged discrimination against American vessels passing through the Welland Canal.

By the twenty-seventh article of the treaty of Washington, Her Majesty's Government undertook to urge upon the Government of the Dominion of Canada to grant citizens of the United States the use of the Welland and other canals on terms of equality with the inhabitants of the Dominion. On the other hand, the Government of the United States promised to secure as far as possible reciprocally equal treatment of inhabitants of the Dominion using canals in the United States connected with the lake system of transportation. The Department is informed that such equality of treatment now exists in the United States.

I will thank you to bring the matter to the attention of the Canadian Government.

I have, etc.,

T. F. BAYARD.

[Inclosure 1.]

Mr. Fairchild to Mr. Bayard.

TREASURY DEPARTMENT,
Washington, July 10, 1888.

SIR: I have the honor to transmit herewith for your information and for such action as you may deem proper, an extract from the last annual report addressed to me by the Commissioner of Navigation, relating to an alleged discrimination by the

Canadian Government, in the matter of the navigation of the Welland Canal, against American ports, American railroads, canals, and American vessels.

It is understood that the discrimination still exists.

The British Government undertook, in article 27 of the treaty of Washington, to urge upon the Government of the Dominion of Canada to secure to the citizens of the United States the use of the Welland, St. Lawrence, and other canals in the Dominion on terms of equality with the inhabitants of the Dominion. But such equality does not now exist in all respects.

Would it not be advisable to bring the matter to the attention of the British Government with a view to securing, if practicable, the abrogation of the objectionable regulations now existing upon the subject?

I am, etc.,

C. S. FAIRCHILD,
Secretary.

[Inclosure 2.]

THE WELLAND CANAL.

Some complaint has been made in regard to an order of the governor-general of Canada levying tax or toll on all wheat, Indian corn, maize, barley, and rye passing through the Welland Canal in American bottoms.

It was alleged that the toll on grain is fixed at 20 cents per ton on all American vessels passing through the St. Lawrence system of canals from one American port to another, but that on grain from a Canadian port destined to another Canadian port the tolls have been reduced the entire length of the canal system. On the other hand, Canadian vessels passing through the Sault Canal are allowed all the privileges of American vessels and are absolutely free of toll. Reciprocity seems to demand similar action on the part of the Canadian Government, or at least that American vessels should be admitted through Canadian canals without the payment of any fees or taxes in excess of the fees and taxes levied on Canadian vessels under similar circumstances.

The complaint as to discrimination against American vessels has been investigated by this office, through the several collectors of customs on the northern frontier. The substance of the statements received is to the effect that discrimination does not exist, except in the case of grain passing through the Welland Canal destined for American ports on Lake Ontario.

No. 589.

Sir L. S. Sackville West to Mr. Bayard.

WASHINGTON, *July* 31, 1888. (Received August 2.)

SIR: I have the honor to acknowledge the receipt of your note of 23d instant, and to inform you that I have brought the alleged discrimination against American vessels passing through the Welland Canal to the notice of the Canadian Government.

I have, etc.,

L. S. SACKVILLE WEST.

No. 590.

Mr. Herbert to Mr. Bayard.

WASHINGTON, *August* 1, 1888. (Received August 2.)

SIR: At the desire of Her Majesty's principal secretary of state for foreign affairs, I have the honor to inclose herewith a copy of Mr. Justice Prowse's report on certain alleged breaches of the Newfoundland bait act by American fisherman.

I have, etc.,

ARTHUR HERBERT,

(In the absence of Sir Lionel West.)

[Inclosure 1.]

Colonial office to foreign office.

DOWNING STREET, *June* 20, 1888. **(Received June 21.)**

SIR: With reference to your letter of the 13th instant, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, for such action as his lordship may think proper, a copy of a dispatch from the governor of Newfoundland, inclosing a report by Mr. Justice Prowse relative to breaches of the bait act by certain American fishermen.

Lord Knutsford proposes to approve the course taken by Governor Blake in this matter.

I am, etc.,

JOHN BRAMSTON.

[Inclosure 2.]

Governor Blake to Lord Knutsford.

Confidential.] GOVERNMENT HOUSE, *Newfoundland, May* 28, 1888.

MY LORD: With reference to my dispatch, confidential, of the 16th instant, I have the honor to inform your lordship that a difference having arisen between Mr. Prowse and the Government as to the amount of his remuneration, he has withdrawn from the position assigned to him in the preventive service under the bait act, and his position has been accepted by Commander Robinson, R. N., port officer, in whose discretion I place very great confidence.

Commander Robinson is to proceed on Wednesday or Thursday next, when the *Lady Glover* comes off the dock. He will receive instructions to exercise the utmost care to avoid any unnecessary friction with foreigners in carrying out his duties.

I inclose a report written by Mr. Prowse, stating that certain breaches of the law had taken place, and detailing the steps taken by him; among others, the order to Mr. Sullivan to prosecute the master and crew of an American schooner.

I had been informed of this on the 22d, and wrote at once to the attorney-general requesting him to telegraph instructions to Mr. Sullivan to suspend action until further orders, as I wished the matter to be considered in council next day.

On the 23d I brought the subject before the executive council, and found a strong inclination to exact the punishment under the provisions of the law. I pointed out that, putting aside the possibility of any question arising, and accepting the legal right of this colony to impose and recover the penalty, it was not advisable just now to give to American politicians adverse to the treaty grounds, however slight, for the working up of public feeling against its acceptance, and suggested that this Government might secure the co-operation of the United States Government in preventing breaches of the act by a more conciliatory policy, and, at the same time, take more effective means to prevent the American fishing schooners from obtaining in future more bait than was necessary for their own use.

To this, after some discussion, the council agreed, with one dissentient, and orders were given that the proceedings should go no further than taking the evidence in the case, which will be forwarded to your lordship.

I would beg to draw your lordship's attention to the statement made by Mr. Prowse that the principal instigator of the breaches of our local law is the United States consul at St. Pierre. My Government earnestly hope that your lordship may be able to induce the Government of the United States to instruct their consul at St. Pierre to abstain from such unfriendly action towards this colony. The fishermen of the United States have experienced no difficulty whatever in obtaining their bait, and are treated with the greatest consideration. Any further attempt, however, to evade our bait act and to trade in herrings with the French under the plea of their fishing privilege will be bitterly resented here, and may lead to undesirable complications.

I have, etc.,

HENRY A. BLAKE.

[Inclosure 3.]

Mr. Prowse to Mr. Fenelon.

ST. JOHN'S, NEWFOUNDLAND, *May* 22, 1888.

SIR: For the information of his excellency the governor in council, I have the honor to make the following report respecting American fishery and the bait protection service.

We met the first American schooner at Harbor Breton, on the 29th March; her master, Greenleaf, was halibut fishing, and he wanted to get twenty-five barrels of herring for bait to complete his voyage. Although the protocol of the Washington treaty was not in force, I gave him permission to get the bait required.

When the American fishing vessels began to arrive in Fortune Bay, and I had received definite instructions to grant license under the protocol, I explained the law and operation of the protocol to them. Many of their vessels being large, I did not restrict them to the limits of the local law, 65 barrels of bait for each schooner, but gave them to the extent of 10 barrels per dory, and even more if necessary. I examined each master on oath as to his vessel being a *bona-fide* banker, and each declared that the bait he received was solely for the use of his vessel in the catching of codfish, and he swore not to export same to St. Pierre nor elsewhere.

I believed from former experience in dealing with American masters that they would act honorably. I did not consider it necessary or desirable to follow the vessels about; I did not for a moment believe that the masters would perjure themselves and sell their bait at St. Pierre. I knew that they had received orders from their owners to obey the Newfoundland laws, etc., and I judged, from the American masters I had met with, they would not act so dishonorably, and there was no fear of their carrying bait to the French in defiance of our laws. In all ways that lay in my power I was extremely courteous to the Americans. About the 4th May I heard rumors that American bankers had been selling their bait in St. Pierre, but there were so many lying statements going about the bay that I thought it was only another idle rumor concocted in St. Pierre. On Saturday, the 5th May, Thomas Farrell, of St. Jacques, and Andrew Heckey, of Bay du Nord, came aboard the *Lady Glover* off Brunette. From them I obtained the following statement on oath: That they knew that the American schooners *Ambrose H. Knight, John William Bray, Ellen U. Adams, J. W. Campbell*, and *Monitor*, sold in St. Peters to the French herrings obtained in Fortune Bay; they also believed that the American schooner *Daniel Morey* sold some of her bait. All the masters of these vessels had been sworn, and all declared on oath that the bait they required under their licenses was solely for the use of their crews in catching codfish on the banks, and they would not export any of said bait to St. Peters or elsewhere or permit any of their crew to do so. After getting the statement I went at once to the hauling-places at the head of the bay and dispatched Mr. Hubert, J. P., in the *Greyhound*, to ascertain what amount of bait each of these vessels had obtained. He obtained clear evidence that the first-named American schooner, *Ambrose H. Knight*, had obtained twenty dory-loads of herring under the pretense that he was going to the Magdalen Islands and that he wanted a large quantity to toll (or entice) the fish. The seine-master, Williams, has been bound to appear. The rest of the vessels named were chiefly baited by servants of Burkes, of St. Jacques, who have been our principal opponents in the bay, and in each case a larger quantity than required was fraudulently given them. All these vessels will have to return to Fortune Bay for a second baiting, and I have deferred proceeding against the seine-masters until all the facts could be brought out on trial.

I am aware that these unlawful acts were done by the American masters and their crews in direct defiance of their owners' distinct orders to obey the laws of Newfoundland, and in the case of the *J. W. Campbell*, now in the bay, and who has been probably caught by Mr. Hubert and the subinspector to-day, my instructions are to fine the master and crew if duly convicted, but not to imprison them, and to do nothing to either the vessel or cargo.

The masters of these delinquent vessels were mostly Cape Breton men, and not native-born American masters. The other American captains condemned their conduct in most emphatic terms. Of course, after this occurrence, I used extra precautions, bound each seine-master not to deliver to any vessel more than 10 barrels per dory, and overhauled each ship leaving the bay to see that she had only her authorized quantity of bait; and I explained to the masters why I was, unfortunately, obliged to adopt this extreme precaution. We all felt extremely annoyed at the rascally conduct of these five masters. I believe the American consul at St. Pierre, who is an extreme opponent of our Government in this measure, gave the American masters bad advice, and did all in his power to induce the Americans to take the French side on this question, and I had continually to fight against his influence.

All the intelligent Americans agreed that our Government had always treated them most liberally, and that it was directly against their best interests to violate our laws and aid the French. The parties who have been loudest in condemning this occurrence have been the chief persons to sell the Americans extra bait.

In conclusion, the whole amount of herring sold by the Americans in St. Pierre did not amount to 300 barrels herring, so far as I could ascertain with certainty; and out of over thirty masters five only have been guilty of dishonorable conduct.

I have, etc.,

D. W. PROWSE.

[Inclosure 4.]

Foreign office to colonial office.

FOREIGN OFFICE, *June* 21, 1888.

SIR: In reply to your letter of the 29th instant, I am directed by the Marquis of Salisbury to convey to you his concurrence in the dispatch to the governor of Newfoundland respecting the limit of French fishery rights on the west coast of that island, of which a draught was therein inclosed.

I am, etc.,

JULIAN PAUNCEFOTE.

[Inclosure 5.]

Colonial office to foreign office.

DOWNING STREET, *June* 22, 1888. (Received June 22.)

SIR: With reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a dispatch from the governor of Newfoundland respecting the enforcement of the bait act.

I am to request that you will draw his lordship's special attention to the draught terms of an arrangement with the French suggested by Judge Prowse, and to observe that, although the proposed agreement does not cover more than a part of the question at issue, it may deserve consideration whether its adoption would not be advantageous as far as it goes, and Lord Knutsford would be glad to be furnished with any observations Lord Salisbury may have to make on the principles on which it is based.

I am to add that Lord Knutsford proposes to approve of the course taken by the governor with regard to Mr. Prowse's proceedings.

I am, etc.,

ROBERT G. W. HERBERT.

[Inclosure 6.]

Governor Blake to Lord Knutsford.

Confidential.] GOVERNMENT HOUSE,
Newfoundland, May 16, 1888.

MY LORD: With reference to your lordship's dispatch, confidential, of the 25th April, I have the honor to inform your lordship that no instructions were given to Judge Prowse, the officer charged with the enforcement of the bait act, beyond the letter a copy of which I inclose.

The first information that I received of steamers being hired and a force placed on board for the enforcement of the act was from Judge Prowse, who called upon me immediately before his sailing. This was previous to the arrangement made by my ministers on my remonstrance, as detailed in my dispatch, confidential, of the 6th April.

Before he set out, I now learn that the attorney-general had advised him to secure, if possible, the services of an agent at St. Pierre, who would give him private information as to breaches of the bait act by the fishermen of Fortune Bay. Mr. Prowse evidently interpreted the advice of the attorney-general in a wider sense than was intended, for early last week he telegraphed to the attorney-general that the French governor would consent to our having an agent at St. Pierre, and that the services of Mr. Sheehan, a native of Newfoundland, long resident in St. Pierre, could be secured for $100 per month. This was followed by a statement that the French were prepared to make an arrangement about the bait bill that would cover the treaty shore difficulty. The attorney-general informed me of this, and by my desire he telegraphed to Mr. Prowse to confine himself to his duties of preventing the export of bait.

A further telegram was received from him by Sir R. Thorburn, stating that the governor of St. Pierre had telegraphed to M. des Isles, the French consul (who, though not acknowledged officially, practically performs here his duty as consul), requesting him to approach this Government, and Mr. Prowse requested that no answer should be given to M. des Isles until his return in the *Lady Glover*, which

was coming here for repairs. As I felt that much mischief might arise from unauthorized attempts at an arrangement by a public officer in Mr. Prowse's position, I directed that he should be telegraphed to again, in the strongest terms, informing him that if he did not confine himself to his duties I should recall him. Sir Robert Thorburn showed me a private letter from him stating terms of arrangement that would not be accepted by this Government.

On Sunday, the 13th, Mr. Prowse returned, and I received from him the letter and "draught of terms," copies of which I inclose. On Monday Mr. Prowse called upon me, when I told him that I entirely disapproved of his conduct in having ventured to approach the matter without authority, and that I should hear from him before the executive council in the afternoon what explanation he had to offer. He then told me that he had never approached the French authorities further than by trying to procure an agent at St. Pierre, and that the "draught of terms" was simply his own views of what terms might be obtained, written without communication with any person. He repeated this before the council in the afternoon, when he was closely questioned as to his proceedings. His statement was that the French merchants of St. Pierre are in great straits for bait, that their first bank fishery is completely lost, and that they are now sending ships to St. George's Bay and the Magdalen Islands to look for bait. He was asked how he knew that the governor of St. Pierre had telegraphed to M. des Isles, and he answered that he had heard it from Mr. Sheehan.

While the members of the executive council felt that Mr. Prowse's action had been unguarded in discussing even with Mr. Sheehan possible terms that would not be accepted here, and that might, if communicated to the French authorities, seriously mislead them as to what would satisfy Newfoundland, he had, on the whole, performed the difficult duty in connection with the bait act very well, and it was decided that he should return, receiving careful instructions for his guidance.

That some communication between the French governor and Mr. Prowse had taken place seemed likely, from Mr. Prowse's knowledge of the telegram sent to M. des Isles by the governor; and certain passages in Mr. Prowse's letter and the "draught of terms" would seem to indicate something more of an attempt at effecting an agreement than the mere jotting down of his own ideas for submission to the government.

M. des Isles is a very shrewd and wary agent, and I feel certain that he would not come to me with any proposition from the governor of St. Pierre, but would confine himself to sounding me indirectly, to see if Mr. Prowse had any authority from this Government, or if the suggestions made would be likely to be accepted here. M. des Isles called upon me to-day, ostensibly for the purpose of returning a book, and we had a long and desultory conversation. He approached the subject of the fisheries cautiously, but acknowledged that the bank fishing had been bad so far, which he attributed to bad weather. He made no proposal of any kind to me, nor did he mention the French governor beyond a statement that he was hampered in St. Pierre by a local legislature, but in the course of conversation we exchanged views to a certain extent. He regretted the difficulty with Fortune Bay. I said I should be heartily glad to see the whole difficulty settled; but no arrangement seemed possible, as the consent of this Government was necessary, and this Government would not listen to any arrangement that did not include the reduction of bounties.

He said the French Government would not touch the question of bounties, which were considered necessary.

I answered that I was under the impression that the French Government had modified the sugar bounties. We spoke about the armateurs and I observed that, as regards the armateurs, if the increased expense of his fishing in consequence of bait difficulties here amounts to 3*s.* or 4*s.* per quintal, he would be in the same position if bounties were reduced to that extent, and he could obtain his bait as heretofore. This would apply to the metropolitan armateur; but the question is more serious for the St. Pierre merchants, as the stoppage of their trade as middle-men between the bait sellers and metropolitan armateurs meant ruin. He acknowledged this. I said that if the price of fish were raised by 4*s.* a quintal by the operation of the bait act it would realize £300,000 for this colony, and it could not be expected that a government of merchants would consent to giving away such an advantage without equivalent. He said that the fisherman of Fortune Bay were losing £50,000 a year. I acknowledged this, but said that probably a regular trade in properly barreled herring would spring up there which would pay the fisherman much better than selling the herring for bait. He said he did not see any difficulty in effecting an arrangement, outside the bait, so far as the shore was concerned. I answered that I did not see how difficulties ought to arise, as it is palpable that the shore fishery is failing; and, as a matter of fact, the western and northern shores are being gradually abandoned by the French, who find they are not making their expenses. The fishing of the future will be the bank fishery, and probably the French could make satisfactory arrangements to procure bait from Norway or elsewhere. Of course St. Pierre would suffer. He acknowledged this, and said the merchants of St. Pierre would be ruined; that he

had advised them to go to St. George's Bay and try to establish a trade there with the people, exchanging French goods for farm produce. After some further conversation he left.

I mentioned this conversation at length, as I think it not improbable, now that it has been demonstrated to the merchants at St. Pierre that the loss of the bait from Fortune Bay and the stoppage of the illicit trade with the southern shore by which the bait has been procured, means financial disaster to them, while the cost of obtaining their fish must be largely increased to the metropolitan armateurs, that the French Government may be moved to approach Her Majesty's Government with a view to renewed negotiations; and it is desirable that your lordship should know exactly what has taken place here.

The hopes of the French have been centered upon St. George's Bay, but this year the herrings have struck in for a few days, and have gone, possibly on account of severe netting, for when the herring are much disturbed in shallow waters they are sometimes driven away, while in deep waters like Fortune Bay they only go down for a time. This year the seasons have singularly favored Newfoundland, and, in my opinion, the time is more favorable for a satisfactory settlement of the whole difficulty than later on, when the first shock of the dislocation of trade arrangements has passed, and possibly a different mode of baiting or fishing may be devised by the French. At present the mercantile community here are so elated at the success of the bait act that it is difficult to say what would satisfy them. But if good terms, including substantial reduction of bounty, could be procured, I should not despair of inducing my Government and the legislature to accept them.

The shore fishery has been declining for some years, and does not now even pay the fishermen of Newfoundland, with their inexpensive gear, while the French armateurs have been losing heavily. The best part of the shore fishery is that from Cape St. John on the east coast to Quirpon on the north. I inclose a return, received from a reliable source, of the number of French vessels and men employed on that portion of the coast for the year 1886-'87, with the number of quintals of fish taken. The decrease in the number last year is very considerable, and it is evident that even with the bounties on fish and premiums on men employed, 18 quintals per man in 1886 and 7 quintals in 1887 could not pay the merchants.

While writing this dispatch I have received from the colonial secretary a report from Mr. Prowse detailing his proceedings in Fortune Bay. I inclose a copy for your lordship's information.

As I feel that it is important that the governor of this colony should know from personal observation the conditions existing round the coasts, I propose to request the admiral to afford me accommodation in one of Her Majesty's ships for that purpose.

I have, etc.,

HENRY A. BLAKE.

[Inclosure 7.]

Mr. Fenelon to Mr. Justice Prowse.

COLONIAL SECRETARY'S OFFICE,
St. John's, Newfoundland, March 8, 1888.

DEAR SIR: I am directed to acquaint you that the Government desire to avail of your services to take charge of the arrangements for the enforcement of the provisions of the bait act of 1887, against the export of bait to St. Pierre during the present season.

You will proceed forthwith in one of two steamers (the *Lady Glover* and *Hercules*) which have been employed for the service. Mr. P. Hubert, J. P., of Harbor Breton, will co-operate with you and under your direction, and you will be provided with a sufficient staff of police.

Subinspector Sullivan will have immediate control of the police, and will also act in the capacity of a commissioner under the second section of the act to examine suspected parties.

It will be necessary for you to remain on board of one of the steamers, acting in concert with Mr. Sullivan, who will have control of the movements of the other, subject to your directions.

You and Mr. Sullivan will also avail of any assistance or information that Mr. Hubert, from his previous experience upon a similar service, can afford, but it is desirable that Mr. Hubert should be as much as possible free to act more particularly in his judicial capacity, and it will probably not be necessary that he should be on board of either of the steamers, except, perhaps, at the outset, in inaugurating the service.

I am, etc.,

M. FENELON.

[Inclosure 8.]

Mr. Justice Prowse to Governor Blake.

ST. JOHN'S, NEWFOUNDLAND, *May* 13, 1888.

MY DEAR GOVERNOR: I inclose for your excellency's perusal the rough draft of the terms we would probably obtain from the French, now that they are in sore straits for bait. I have sent a copy to Sir Robert. If this arrangement were carried out we should gain a great diplomatic triumph, virtually settle the vexed questions of the consul at St. Pierre, and the bad treatment of our fishermen by French officers, get a large increase of revenue, and greatly benefit Fortune Bay.

The bait act is a two-edged sword that cuts into our finances and ruins the Fortune Bay men; to keep it up indefinitely is bad policy. I have carefully studied the question, and I am sure you will never compel the French to give up their bounties; your pressure on them will have directly opposite (?); if we persecute them the home Government will help them; you know the French character, and will see that I am right; the French are very anxious to negotiate just now; later on the pressure may be removed; supplies of bait may turn up; therefore I think when I first asked Government was the very best time, as they were in a panic. I also know that through St. Pierre is the best way to negotiate; the colony is really interested, and its views will rule with the home country. I have carefully worded these paragraphs, so as not to touch French pride.

They really amount to giving us a consul and concurrent rights, but I have not so worded it.

Paragraph 5 might run:

"French and English subjects on parts of Newfoundland where French have treaty rights shall possess and enjoy equal and concurrent rights in the cod fishery on those coasts."

I shall call some time early and discuss the points with your excellency. I try my best to follow your directions "to bait the French."

I have, etc.,

D. W. PROWSE.

[Inclosure 9.]

DRAFT OF TERMS.

[Confidential and non-official.]

Whereas it is desirable to promote friendly intercourse and to remove all causes of misunderstanding between Her Britannic Majesty's subjects in Newfoundland and the citizens of the French Republic resorting to that colony for the purpose of fishing, Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and the President of the French Republic have resolved to conclude the following temporary arrangement and *modus vivendi:*

(Here insert names of plenipotentiaries. I had governor Newfoundland and St. Pierre.)

(2) French *bona fide* fishermen shall be permitted to purchase all kinds of bait fishes in Newfoundland for the sole use of their fishing vessels in the catching of codfish from the —— day of April in each year, on payment of an annual license fee of —— per ton register, subject to the following conditions:

Such bait shall only be procurable by French fishing vessels when at anchor within a port of entry in Newfoundland, and after such vessel has been duly entered by a custom-house officer and the license *visé* by such officer.

Each fishing vessel shall receive bait exclusively for the use of the crew of the said vessel in the catching of codfish, and such bait to be given at the rate of —— barrels per dory manned by two fishermen; such licenses shall be given subject to the laws of Newfoundland, the terms of this arrangement, and the other conditions named in such license.

(3) Such licenses shall be granted by the resident agent and representative of the government of Newfoundland at St. Pierre, who, for all purposes connected with this position, shall have the same facilities, rights, and powers as the duly authorized consul of any foreign power resident on French territory.

(4) Her Majesty agrees that all questions arising in Newfoundland of the violation of the laws of Great Britain or Newfoundland committed by French subjects in the colony shall be tried in a speedy and inexpensive manner at the place of detention of the vessel; where practicable reasonable bail shall be accepted; there shall be proper appeals available for the defense; the written evidence at the trial may be

used on such appeals; all judgments may be reviewed by the governor of Newfoundland.

The high contracting parties further agree that all infractions of the treaties committed by subjects of either nation on parts of Newfoundland where the French have fishery rights shall be tried by a mixed commission composed of French and English naval officers, on which commission the colony of Newfoundland may be represented by counsel, but without judicial authority, and all coercive jurisdiction under the said treaties shall be exercised solely by the said mixed commission.

(5) The President of the French Republic undertakes to direct all his officials and all citizens of the said Republic in Newfoundland to treat all English subjects, when fishing on parts of Newfoundland where the French have treaty rights, at all times in a friendly manner, not to molest or disturb them in their avocations, or treat them in an arbitrary manner, or drive them out of any harbor, or cut up or injure or take up any of their fishery gear, or injure their boats or vessels, and at all times to treat them as the French treat each other.

(6) A mixed commission of French and English naval officers shall be appointed by the high contracting powers to delimit without delay the waters surrounding the French colonies of St. Pierre and Miquelon and the adjacent waters surrounding Newfoundland, and such delimitation shall be marked by them on the admiralty charts of both countries by a series of lines regularly numbered and duly described, and such charts shall be signed in duplicate and duly delivered to the respective governments.

(7) This arrangement may be concluded by either of the high contracting parties giving each other twelve months' notice in writing of their intention to terminate the same.

(8) To facilitate a speedy settlement this arrangement may be ratified in London by the ambassador of the French Republic and the Government of Her Majesty, and put in force immediately.

[Inclosure 10.]

Mr. Justice Prowse to Mr. Fenelon.

ST. JOHN'S, NEWFOUNDLAND, *May* 14, 1888.

SIR: Having been requested by the Government on the 8th March, 1888, to take charge of the arrangements for enforcement of the provisions of the bait act of 1887 against the exportation of bait to St. Pierre, I have the honor to make the following report of my proceedings to this date:

I received a very brief letter of instructions from the Government at 1 p. m. on the 8th March; at 2.30, having to wait an hour for the police, I started from St. John's in company with the steam-ship *Hercules*, with a party of police, under the command of Subinspector Sullivan. After being detained by ice for two days, we arrived at St. Lawrence on the 12th. Immediately proceeded to Lamalim and Grand Bank, and thence to Belloram. I found feeling running high in the district against the act, and that there would be determined opposition to its enforcement. The people had been led to believe by interested parties in St. Pierre that the act was made entirely in the interests of St. John's merchants; that the British Government did not approve of it; that the St. John's government, as the French call the colonial administration, wished to starve Fortune Bay, and, finally, that a large number of schooner owners had bound themselves together by a mutual written agreement to break the law in a body after the 18th April.

During all the month of March and the next month I was busy going about in the steamer *Lady Glover*, visiting every settlement in Fortune Bay, Bay Despoir, Hermitage, and Placentia Bays. I explained to the people the nature of the measure, that it was intended to protect our interests, that by its enforcement we would compel the French to come into our bays to buy their bait, and then obtain for the people better prices for their herring, and prevent the reckless waste that now goes on, and generally to obtain fair terms from the French.

In two large settlements of Fortune and Grand Bank the people, having heard my views, generally agreed with me, and they have always loyally obeyed the law. I also found that from the scarcity of herring in Placentia Bay there would be no disobedience to the law, and that I was free to give my undivided attention to Fortune Bay. In the smaller harbors the fishermen were so afraid of punishment that I found generally there was not much danger to be apprehended from them. So from the 15th April on I had to give my undivided attention to fighting the opponents of the measure at Rencontre, St. Jacques, Belloram, Bay de North, and English Harbor.

In the mean time I kept the *Hercules* on guard all the time at the mouth of the bay, relieving her from time to time with the *Lady Glover*.

On the 15th Government engaged *Greyhound*, and I put Mr. Hubert, resident magistrate for Fortune Bay, in charge of her. I had received information of when the

meetings were to be held, and I was always present to combat objections, to explain the act, and generally to fight my opponents.

The 18th April was the legal time under the old law for carrying herrings to St. Pierre, and on the 19th the combined schooner owners had agreed to haul. The merchants of St. Pierre fully expected on that day a supply of bait, as their friends in Fortune Bay had promised to break the blockade, but from the 19th to the 22d active preparations were made for a meeting at Bay de North on the 23d.

On Sunday evening, 22d, there was a disturbance at Rencontre; the police were resisted in searching a vessel for herrings, stones thrown at them, and the small force had to retire. They recognized the ringleader, and after taking depositions and issuing warrants I proceeded to Bay de North, to meet the *Hercules*, with the subinspector and the rest of the police. By 2 a. m. we had arrested the ringleaders in their beds, taken the principal conspirator, an Italian named Giovannini, as a witness, and then proceeded to Bay de North, where between forty and fifty schooners were at anchor. The appearance of Giovannini aboard our steamer, and the news of the arrest of their leader, Thomas Vallance, exaggerated accounts of the number of other prisoners on board, struck terror into the members of the combination. Mr. Hubert went amongst them, advised them to obey the law, and one by one they went away. From this time forward we were continually employed with the four steamers enforcing the act and it has been done so effectually, that by the 4th May the French, out of 52,000 barrels of herring required for their first baiting, had only obtained 4,000 barrels. The largest portion of this supply was received by them before our arrival in Fortune Bay, and only a small portion by smuggling. Some of this quantity was received from American bankers, who, having obtained bait by license under protocol of Washington treaty solely for their own use, and under a solemn obligation not to export to St. Pierre, nevertheless, about five out of over thirty perjured themselves and sold bait. I was particular in dealing with the Americans, had treated them all very courteously, and all the rest of the American masters condemned in vigorous language the conduct of these five skippers. By this time the French, having realized that bait could not be obtained from Fortune Bay, turned their attention to other sources of supply; sent first one portion of their fleet to Bay St. George, whilst another went to Magdalen Islands. In neither of these places have they been successful in obtaining the desired supply, and the experiments tried with purse-seines have been equally unsuccessful. The French have realized that they can not do without the supply of bait from Fortune Bay; it was always cheap, convenient, and fresh, three necessary ingredients in such a traffic.

I have, etc.,

D. W. PROWSE.

[Inclosure 11.]

List of French vessels from Lacie to Quirpon.

Name of place.	Number of schooner.	Number of brigs.	Number of men.	Number of seines.	Number of quintals of fish.
1886.					
Lacie	.....	1	84	3	1,450
Cat Cove	.....	1	62	2	650
Canada	.....	1	65	2	550
Rogue Harbor	1	5	340	11	11,000
Croque	.....	1	62	3	350
St. Julian's	.....	1	66	3	700
Sealet	.....	1	64	2	280
Fish Shot Island	.....	1	60	2	280
Quirpon	.....	1	62	2	220
	1	13	865	30	15,480
1887.					
Rogue Harbor	.....	4	250	8	2,000
Croque	.....	1	66	2	350
St. Julian's	.....	1	66	2	400
Fish Shot Island	.....	1	64	2	330
Canada	.....	1	62	2	440
		8	508	16	3,520

[Inclosure 12.]

The Marquis of Salisbury to Mr. Edwardes.

No. 159.] FOREIGN OFFICE, *June* 22, 1888.

SIR: I approve the note to the United States Government respecting the alleged violation of the Newfoundland bait act by the United States fishermen, of which a copy accompanied your dispatch No. 207, of the 7th instant.

I am, etc.,

SALISBURY.

No. 591.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, August 4, 1888.

SIR: I have been unavoidably delayed in the presentation to you of an application made to this Department by a large number of citizens of New York importantly engaged in trade with Canada in relation to a feature of Canadian laws which is alleged to contain an especial discrimination against importations of merchandise, "the product of countries east of the Cape of Good Hope," coming into Canada by the way of the United States.

I transmit a copy of the body of the memorial, in order that the signers may explain their own object.

As it is my purpose to ameliorate the trade relations of the neighboring countries, I will ask you to bring the subject to the attention of the Canadian authorities.

I am, etc.,

T. F. BAYARD.

[Inclosure.]

Messrs. Howell, Son & Co., and others, to Mr. Bayard.

NEW YORK, *April* 20, 1888.

DEAR SIR: We beg to call your attention to the fact that about the year 1875 the Canadian government passed a law creating a discriminating duty of 10 per cent. *ad valorem* to be imposed on all merchandise "the product of countries east of the Cape of Good Hope" imported from points west of the Cape of Good Hope, except Great Britain, and virtually made a promise that as this measure was of a retaliatory nature, they would remove this discriminating duty whenever the United States Government should take off a similar duty which was at that time in force.

By act of Congress passed May 4, 1882 (Department circular dated May 16, 1882), the United States repealed their discriminating duty, to take effect January 1, 1883; but the Canadian government has not yet removed their 10 per cent. retaliatory or discriminating duty.

We ask that you bring this matter before the Canadian government, and try to have their discriminating duty against the United States removed.

In case of removal of this duty, there would be sure to be a large trade brought about between the two countries, and doubtless to their mutual benefit, but certainly to the benefit of the United States.

We would especially call your attention to the fact that the Canadian 10 per cent. retaliatory duty is against the United States only.

We are, dear sir, yours truly,

B. H. HOWELL, SON & CO.; and fifty-three others.

No. 592.

Sir L. S. Sackville West to Mr. Bayard.

BEVERLY, *August* 9, 1888. (Received August 16.)

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, and to inform you that I have brought to the notice of the Dominion Government the alleged discrimination which exists against importations of merchandise the product of countries east of the Cape of Good Hope coming into Canada by way of the United States.

I have, etc.,

L. S. SACKVILLE WEST.

No. 593.

Sir L. S. Sackville West to Mr. Bayard.

BEVERLY, MASS., *August* 13, 1888. (Received August 15.)

DEAR MR. BAYARD: With reference to your private communication on the question of rendering aid to vessels wrecked in the waters lying between the United States and Canada, I inclose extract from a committee of the privy council thereupon.

Yours, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Extract from a report of a committee of the privy council of Canada.

The minister of customs reports that no refusal has ever been made on the part of the government of Canada to applications made by United States vessels for permission to assist in the saving of lives of United States citizens when in danger in Canadian waters.

The minister also observes that authority has always been readily granted, on application to the minister of customs, when United States vessels and cargoes have been in imminent peril in Canadian waters, to use the services of United States tugs when no Canadian tugs were immediately available to render services. The Dominion government is now ready, and has been at all previous times, to enter into reciprocal arrangements with the Government of the United States for the coasting trade in the respective waters of the United States and Canada, which would also include the wrecking privileges and towing business of each of these countries.

The minister observes further that the recent action of the house of commons of Canada in rejecting a bill brought before it during the present session with a view of establishing reciprocity in the wrecking and towing between Canada and the United States supports the position hitherto maintained by the government in declining to entertain the proposition for a measure of reciprocity in coasting and wrecking, but partial in its character.

JUNE 1, 1888.

JOHN MCGEE.

No. 594.

Sir L. S. Sackville West to Mr. Bayard.

BEVERLY, MASS., *August* 13, 1888. (Received August 16.)

SIR: I have the honor to communicate to you herewith copy of an approved minute of the privy council of Canada relative to the tolls

levied by the Dominion authorities on vessels passing through the Welland canal.

I have, etc.,

L. S. SACKVILLE WEST.

[Inclosure.]

Certified copy of a report of a committee of the honorable the privy council for Canada.

At the present time the tolls chargeable on all goods and merchandise passing through the Welland Canal bound for any Lake Ontario port are the same, whether, for example, the destination of such merchandise be Toronto or Prescott on the north, or Oswego or Ogdensburg on the south.

Wheat and certain other cereals pay 2 cents per ton for passage through both the Welland and St. Lawrence Canal system to Montreal, or to any point on the St. Lawrence Canal system short of Montreal, without discrimination, whether to ports on north or south shore, and that the same cereals shipped from any port on Lake Ontario, whether American or Canadian, to Montreal pay 2 cents per ton for passage through the whole of the St. Lawrence Canals.

No. 595.

Sir L. S. Sackville West to Mr. Bayard.

BEVERLY, MASS., *August* 25, 1888. (Received August 27.)

SIR: I have the honor to inform you that the Marquis of Salisbury has requested me to bring the following case to the notice of the United States Government:

Her Majesty's high commissioner in the western Pacific reports, under date of the 28th of May last, illegal recruitment of native laborers in the New Hebrides on board a vessel named the *Mary Anderson*, "flying the British flag, although alleged to belong to an American citizen named Eugene Wilbur." It would appear from Mr. Wilbur's own statement that he has recruited labor on board a vessel flying the British flag, such vessel being owned by him and therefore not qualified to carry the said flag.

In this case the vessel would, it is believed, be legally liable to forfeiture. But if the ownership had not yet passed to Mr. Wilbur and he was as he stated in command, he has committed an offense under the Pacific islanders protection act of 1872–'75. As, however, Mr. Wilbur is an American citizen and not within Her Majesty's dominions, Sir John Thurston has not taken proceedings against him. But whether he is legally liable or not, he has been a party to illegal recruiting under the British flag, while his purchase and sailing of a British-built vessel under the American flag, which is now carried, is, Sir John Thurston believes, contrary to the laws of his own country, and he therefore submits that the matter may be brought to the knowledge of the United States Government, with a view to such action being taken as may be necessary to prevent the commission of such irregularities; and he deems that the question of the authority of the United States citizens to fly their national colors at their own discretion in these seas over British vessels which they may have actually or only nominally purchased may be one of interest to the Government of the United States.

I avail, etc.,

L. S. SACKVILLE WEST.

No. 596.

Mr. Bayard to Sir L. S. Sackville West.

DEPARTMENT OF STATE,
Washington, September 3, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 25th ultimo, in which, by request of the Marquis of Salisbury, you bring to the notice of this Government certain acts of one Eugene Wilbur, said to be an American citizen, in command of and alleged to be the owner of a vessel named the *Mary Anderson*, which is said to have worn the British flag at the time of the acts referred to, and to be now sailing under the American flag.

The interesting subject you thus bring to my attention will receive due consideration in the proper quarter.

I have, etc.,

T. F. BAYARD.

No. 597.

Lord Sackville to Mr. Bayard.

BEVERLY, MASS., *October* 10, 1888. (Received October 13.)

SIR: With reference to your note of the 3d of September, relative to irregular recruiting on board the *Mary Anderson* in the New Hebrides, I have the honor to inclose herewith extract from a dispatch from the high commissioner in the Western Pacific, which the Marquis of Salisbury has requested me to communicate to you.

I have, etc.,

SACKVILLE.

[Inclosure.]

Extract from a dispatch of the high commissioner of the Western Pacific.

I have ascertained from Mr. Layard, Her Majesty's consul at Nouméa, that the vessel was still British owned when the illegal recruiting took place, and that her registered master was George Facio, a French half caste. Mr. Wilbur was on board and in practical control, having chartered the vessel pending the receipt by the owner's agent of authority to sell.

It would thus appear that, while Mr. Wilbur was the real offender, the only person legally liable in respect of the unlicensed recruiting was the master of the vessel, George Facio. As this person is not a British subject, and is not resident in British territory, or at present employed in British vessels, I do not think it advisable to take steps against him. There is, I may mention, no reason to believe that the laborers engaged otherwise than of their own free-will.

No. 598.

Mr. Herbert to Mr. Bayard.

WASHINGTON, *November* 11, 1888. (Received November 12.)

SIR: With reference to the previous correspondence which has taken place between this legation and the Department of State relative to the establishment of a reciprocal arrangement between Her Majesty's

Government and that of the United States for rendering aid to vessels wrecked in the waters lying between Canada and the United States, I am instructed by the Marquis of Salisbury to call your attention to an offer on the part of the Canadian Government, contained in a minute of council passed on the 6th of June, 1879, to make reciprocal arrangements in regard to the coasting trade of the inland waters only of the two countries to include wrecking and towing privileges.

This offer is a standing one, and Her Majesty's Government are of opinion that it would be to the advantage of the two countries if some arrangement of the kind could be made, as it is important in connection with the questions relating to wrecking that are continually arising.

I have, etc.,

MICHAEL H. HERBERT.

No. 599.

Mr. Bayard to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, November 16, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, in which, referring to the proposals heretofore made looking to some reciprocal arrangement to facilitate the saving of life and property in cases of wreck and stranding in the waters between the United States and Canada, you call my attention, under instructions from the Marquis of Salisbury, to an offer on the part of the Canadian government contained in a minute of council passed on the 6th of June, 1879, to make reciprocal arrangements in regard to the coasting trade of the inland waters only of the two countries, to include wrecking and towing privileges. You add that this is a standing offer, and that Her Majesty's Government is of opinion that it would be to the advantage of the two countries if some arrangement of the kind could be made.

The standing offer in question appears to be the same as that referred to in the extract from a report of a committee of the privy council of Canada, dated 1st June, 1888, which was communicated to me with a letter from Sir Lionel West, written from Beverly, Mass., of the 13th of August last. The text of the minute of 6th June, 1879, was communicated to one of my predecessors by a note of Sir Edward Thornton, dated Newburyport, June 18, of that year.

I may be permitted, in view of the revival of the Canadian declaration that no partial arrangement of reciprocity in this regard will be permitted, to repeat the same surprise which was expressed in this Department's reply of August 11, 1879, to Sir Edward Thornton's communication of the original declaration, that any such expression as is contained in the report referred to should have been made in view of the act of the Congress of the United States, approved June 19, 1878, entitled "An act to aid vessels wrecked or disabled in the waters coterminous to the United States and the Dominion of Canada." That act followed in the line of the concurrent legislation which has done so much in the last seventy years to expand the good intercourse of the United States with the British North American possessions, and gave outright to Canadian vessels the right to render aid or assistance to Canadian vessels wrecked or disabled in the waters

of the United States contiguous to the Dominion of Canada, on the sole condition that vessels of the United States should be admitted to perform identical humane services in the waters of the Dominion contiguous to the United States. It appears, from the several declarations of the Government of Her Majesty, made through its authorities in Canada, that the vessels of the Dominion will not be permitted to avail themselves of the privilege granted by the act referred to, except in the case of the reciprocal arrangement which it contemplates being a mere incident to the removal of all "restrictions upon the movements of the vessels of either nation" upon their inland waters, or, as appears to be stated in the report of June 1, 1888, that any arrangement for the mutual saving of life and property from the perils of the inland waters must be extended so as to include full participation in the coasting trade and towing business therein.

Should I, however, be mistaken in this supposition, and it should be merely the wish of the authorities of Her Majesty's Dominion of Canada to ameliorate those restrictions upon the movements of vessels in the coterminous inland waters which are found in practice to be "unpleasant and inconvenient," I should be most ready to receive a counter proposition setting forth the ameliorations which they may be disposed to suggest, in order to meet the generous offer of the act of June 19, 1878.

I have, etc.,

T. F. BAYARD.

CORRESPONDENCE WITH THE LEGATION OF GUATEMALA AT WASHINGTON.

No. 600.

Mr. Lainfiesta to Mr. Bayard.

[Translation.]

LEGATION OF GUATEMALA,
New York, October 25, 1887. (Received October 26.)

SIR: The Government of the Swiss Confederation in Europe obtained and maintains from the Government of the United States of America a concession which is an evidence of frank and generous friendship, and is, moreover, for that Republic, an act which gives it especial respect and consideration among other countries.

I refer to the fact that where Switzerland is without consular or diplomatic representation, the consuls or ministers of the United States lend their friendly offices, in the name of Switzerland, temporarily exercising consular or diplomatic functions.

A like exchange of friendly services is found concerted among other nations, and is a measure which greatly favors the course of international relations and rights in the case of a proper representative being wanting to forward and sustain them.

By agreement between France and Spain, on the recent withdrawal from Guatemala of the Spanish legation, the French minister repaired to the Department of State to announce that the relations with Spain would be attended to for the time being by the French legation.

The Republic of Guatemala aspires to the honor of being granted by your excellency's Government the same prerogative as that enjoyed by Switzerland, and indulges the hope that this desire may be fully favored by the friendship and sympathy it has always evinced for the small Republics of America.

For the Republic of Guatemala it would be a concession of great value, as well as a high distinction, to have the representatives of the United States lend it their friendly good offices in countries where Guatemalan representation may be wanting; and my Government, desirous to obtain said concession, has sent me special instructions to solicit this in its name from the Government of your excellency, with the understanding that whenever the consuls and ministers of Guatemala, notwithstanding their humble significance, may correspond in like manner by lending their friendly services in the name of the American Government they shall be instructed by my Government to do so with all earnestness, and to hold it an honor to practice that reciprocity.

Praying your excellency to be good enough to entertain this matter kindly, I have, etc.,

FRANCO. LAINFIESTA.

No. 601.

Mr. Bayard to Señor Montufar.

DEPARTMENT OF STATE,
Washington, December 24, 1887.

SIR: I have the honor to acknowledge the note of the 25th of October last, intimating a wish on the part of the Government of the Republic of Guatemala that this Government should allow its diplomatic and consular representatives to lend their friendly good offices in countries where Guatemala is without consular or diplomatic representatives on behalf of its citizens in the same way in which the aid of United States officials is extended to citizens of the Swiss Republic.

Lest this assistance should be less comprehensive and powerful than you may have been led to expect, I inclose you a copy of portions of my note* of the 1st of July last to the representative of the Swiss Republic at this capital.

Should your Government, after knowing the terms of this note, still desire the friendly offices of our foreign representatives, I shall be most happy to send circular instructions to our diplomatic and consular agents similar to those contained in the circular of the 15th of December, 1871, in reference to Swiss citizens.

Accept, sir, etc.,

T. F. BAYARD.

No. 602.

Mr. Montufar to Mr. Bayard.

[Translation.]

LEGATION OF GUATEMALA,
Washington, December 27, 1887. (Received January 9.)

Mr. MINISTER: I have had the honor to receive your excellency's esteemed letter of the 24th instant, in which you are pleased to reply to the one addressed by Señor Lainfiesta on the 25th of October last, to the Department under your worthy charge. I also received the copies your excellency was kind enough to send of the documents relative to the instructions which, at different periods, were forwarded to the diplomatic and consular agents of this Republic, in regard to what they are permitted to do in behalf of Swiss citizens as directed by the circular of December 15, 1871; all of which is perfectly explained in your dispatch of July 1, of this year, to Major Karl Kloss, the representative of Switzerland at this capital.

Your excellency is kind enough to state to me that should my Government, on learning the terms of the document to which your esteemed communication refers, desire still the friendly good offices of the representatives abroad of the United States, you will be pleased to issue to them, with reference to the citizens of Guatemala, a circular similar to that of December 15, 1871.

The extraordinary greatness of this prosperous nation, its principles, its liberties, and its republican form caused the Government of Guatemala to profess profound sympathy with that of your excellency, and

* Printed F. R., 1887, page 1076.

to endeavor to extend day by day their commercial relations, which are in truth continually assuming larger proportions, to the benefit of both nations.

This is demonstrated by the increase at New York of importations and exportations from and to the ports of my country, and also by the fact of all the great enterprises of Guatemala being in the hands of American companies, to which my Government lends every kind of facility.

These circumstances will make evident to your excellency that my Government endeavors to render more intimate the happy ties of friendship which bind it to that of your excellency, and by very special instructions from the state department of Guatemala, to this end is directed the communication of Señor Lainfiesta, to which your excellency has so kindly replied.

Perhaps going into the details of the subject with your excellency, a treaty of friendship and commerce could be made between Guatemala and the United States in which your excellency, as explained in the penultimate paragraph of your note to Don Karl Kloss, could not authorize more than the Constitution allows, obtaining at the same time favorable advantages, beneficial to our respective countries.

Until my Government is made acquainted, as your excellency desires, with the documents you have been pleased to transmit to me, I take the liberty of calling your illustrious attention to the views (*conceptos*) of the anterior paragraph, which your excellency will doubtless note.

I offer your excellency most earnest and sincere thanks for the sentiments of friendship for my Government expressed in your esteemed letter. This is a new evidence of regard for Guatemala which will be duly appreciated, and in the name of the Government of my country I testify the deepest gratitude.

I avail, etc.,

MANUEL MONTÚFAR.

HAWAII.

No. 603.

Mr. Merrill to Mr. Bayard.

No. 138.] LEGATION OF THE UNITED STATES,
Honolulu, August 26, 1887. (Received September 14.)

SIR: I have the honor to transmit herewith copies of an "intermediate report of the minister of finance,"* containing a statement of the receipts and expenditures of the Hawaiian treasury for the fifteen months ending June 30, 1887, when the present minister assumed office.

The statement shows that of the two million loan authorized by the last legislature, $1,000,000 have been borrowed in London and $500,000 in Honolulu, only $1,264,699.26 of which has been netted the Government in Honolulu and San Francisco, the balance, amounting to $235,300.74, having been absorbed for expenses of floating the loan and interest retained by the London syndicate.

The syndicate in London, it appears, has charged interest on $1,000,000 for six months ending June 30, 1887, whereas the money was not paid until May and June last.

The loan act authorizes the expenditure of only $100,000 for floating the entire loan of $2,000,000, while there has already been charged against the Government $205,300.74 on account of loan of $1,500,000, besides the $30,000 interest retained in London.

I am reliably informed that it is the intention of the present ministers to allow to the London syndicate only the 2 per cent. discount and 5 per cent. commission authorized by the loan act and interest on amount borrowed from the date of its reception by the Hawaiian Government, and, further, that it is not the intention to place any more of the two million loan in London, but to borrow here as needed.

For a detailed statement of the transactions concerning the amount borrowed under the loan act I respectfully refer to pages 2 and 27 of the inclosed report. The indebtedness of Hawaii on the 30th of June last, including the new loan of $1,500,000, amounted to $1,721,000, one million of which is owing in London.

I also most respectfully call attention to the statement, on page 6, of the minister of finance, concerning cable communications with America. The Mr. Coate therein referred to remained here about one week last month while *en route* to Australia, and it is with the intention of making cable connection between these islands and Victoria, and in the interest of the Canadian Pacific Railroad, that he asks for the three years' exclusive privilege of landing a cable and the subsidy of $20,000 *per annum*.

The annual subsidy of $20,000 for maintaining telegraphic commu-

* Not printed herewith.

nication between these islands and the North American continent, was authorized by the last legislature and referred to in my dispatch No. 78, of September 2, 1886.

I have, etc.,

GEO. W. MERRILL.

No. 604.

Mr. Merrill to Mr. Bayard.

No. 141.] LEGATION OF THE UNITED STATES,
Honolulu, September 19, 1887. (Received October 6.)

SIR: I have the honor to inform you that the first election for members of the Hawaiian legislature under the new constitution was held throughout the Kingdom on the 12th instant, and resulted in a complete victory for the reform or new constitution party there being only two opposition condidates elected.

Election day was very quiet and orderly in Honolulu, and no disturbance is reported in any part of the Kingdom.

So far as I have been able to ascertain the elected members of the legislature are men of property, and fully identified with the progress and prosperity of the country.

The returns indicate a large native Hawaiian vote in favor of the reform party, and that the race issue, which a few endeavored to bring prominently forward, did not meet with favor. Especially is this noticeable in the case of Mr. Aholo, late minister of the interior, who, being a candidate for the legislature from Lahaina, Mani, is said to have made race prejudice the basis of his campaign, yet, in a community largely composed of native Hawaiians, he was defeated by a large majority.

In fact there was no formidable opposition party, and all candidates publicly accepted and extolled the new constitution, excepting the provisions requiring property qualifications, in voting for nobles, which formed the basis of what little opposition was exhibited.

Whether a session of the legislature will be called before the regular session, provided by the constitution to assemble in May, is not fully determined, although it is quite probable it will be convened in extra session some time in November.

Since the election failed to create any undue commotion business affairs move along in the usual channels, and confidence in the continued peace and prosperity of the Kingdom is generally expressed.

I have, etc.,

GEO. W. MERRILL.

No. 605.

Mr. Bayard to Mr. Merrill.

No. 61.] DEPARTMENT OF STATE,
Washington, September 30, 1887.

SIR: Your No. 134, of the 25th of July last, in reference to an oath required of foreign residents in the islands, is received.

This question was brought to the notice of the Department by Mr. Putman, in his No. 125, of the 1st ultimo, and in reply he was instructed on the 18th ultimo that citizens of the United States who take the oath

of fealty prescribed by the new constitution of Hawaii remain citizens of the United States, and are entitled to be regarded and treated as such by our consular and diplomatic officers.

That such a result is contemplated by the Hawaiian Government appears evident from the last sentence of the oath, which reads:

> Not hereby renouncing, but expressly reserving all allegiance and citizenship now owing or held by me.

This Department is informed that this oath is indiscriminately required of citizens of other nations, who are nevertheless understood by their own governments to retain their own nationality of origin. Inasmuch also as this oath is a requisite condition for exercising any political privileges on the island, it is evident that a refusal on the part of this Government of the assent to taking it granted by other govments to their citizens would result in the destruction of any political power previously possessed by our citizens and its transfer to citizens of other assenting nations.

The Department, therefore, desires that you will consider the above instruction as addressed to yourself, and that you will relieve the minds of all *bona fide* American citizens who, while honestly desiring to retain their American nationality, are, in order to obtain the privileges necessary for a residence in the islands, obliged under local law to take an oath to support the constitution of the Hawaiian Kingdom.

I am, etc.,

T. F. BAYARD.

No. 606.

Mr. Merrill to Mr. Bayard.

No. 148.] LEGATION OF THE UNITED STATES,
Honolulu, October 15, 1887. (Received November 9.)

SIR: I have the honor to inclose the report of the inspector-general of immigration, lately published in the daily papers of Honolulu.

The inspector-general has visited all the sugar-producing plantations of this kingdom employing immigrant laborers and has embodied in his report the number and nationality of the employés; also their sanitary condition and the preference of each plantation manager for laborers of the several nationalities.

It will be observed that the total number of immigrant laborers employed on the several plantations is 13,517, while of the 59 plantations visited 23 prefer the Japanese and the remaining 36 are about equally divided in a preference for Portuguese and Chinese.

My observation coincides with the statement in the report that "the general impression is there are enough Chinese in the country."

I have, etc.,

GEO. W. MERRILL.

No. 607.

Mr. Merrill to Mr. Bayard.

No. 149.] LEGATION OF THE UNITED STATES,
Honolulu, October 22, 1887. (Received November 9.)

SIR: Referring to the supplementary convention mentioned in your unnumbered dispatch of the 26th ultimo, I have the honor to advise

you that I am informed that the supplementary convention, as amended by the Senate, has been ratified by His Majesty the King, and that Mr. Carter, the Hawaiian minister at Washington, was so advised per mail by the steamer touching at this port last night *en route* from Australia to San Francisco.

On learning, through the press of this city, that His Majesty's Government was disposed to consider favorably the amended supplementary convention, the British commissioner resident here addressed a note to the Hawaiian minister of foreign affairs, and after reciting that England and France by the treaty of November 28, 1843, had guarantied the independence of Hawaii, he makes the following statement:

> But the acquisition by the United States of a harbor or preferential concession in any part of the Hawaiian Kingdom would, in the opinion of Her Majesty's Government, infallibly lead to the loss of its independence and the extinction of the Hawaiian nationality.

In reply to this note, the Hawaiian minister of foreign affairs stated in substance that the United States being a new and friendly power, with which this country is necessarily intimately connected commercially, and having granted the original treaty of reciprocity at a loss to its revenue to the great advantage of Hawaii, it would seem that, consulting the best interests of the people of Hawaii, and for the purpose of continuing intimate commercial relations, it was a proper and patriotic policy for His Majesty's ministers to advise the ratification of the supplementary convention as amended while it did not appear that the autonomy of Hawaii was invaded.

The British commissioner replied to the minister of foreign affairs, intimating his dissatisfaction and objecting at length to a preferential concession to the United States.

To this last note of the British commissioner the minister of foreign affairs will reply the coming week.

As yet, the commissioner is not aware that His Majesty the King has ratified the supplementary convention.

At intervals during the past few weeks, the Bulletin and Gazette, daily newspapers published in this city, have been engaged in a controversy concerning the Senate amendment, coupled with a discussion of the independence of Hawaii.

I have, etc.,

GEO. W. MERRILL.

No. 608.

Mr. Merrill to Mr. Bayard.

No. 153.] LEGATION OF THE UNITED STATES,
Honolulu, November 8, 1887. (Received November 25.)

SIR: I have the honor to inform you that on the 3d instant the Hawaiian legislature convened in Aliiolani Hall, Honolulu, and was opened by His Majesty in person.

On this occasion the King was accompanied by Her Majesty the Queen, Her Royal Highness Princess Liliuokalani, and Her Royal Highness Princess Kaiulani.

I inclose a newspaper account of the opening ceremonies, also a copy of the speech of His Majesty the King in formally opening the session, and the reply thereto as reported to and adopted by the legislature.

One of the principal points of interest in the speech and reply is the reference to a renewal of the treaty of reciprocity with the United States, which has been received throughout the community with very much favor.

Relative to the extension of the treaty I inclose a copy of an editorial article entitled "The Legislation," published on the 4th instant, in the Daily Hawaiian Gazette.

The legislature organized promptly by the election of Hon. Samuel G. Wilder, of Honolulu, as presiding officer, and the usual complement of officers.

It is generally believed that the legislature is composed of members disposed to transact business promptly, and, if possible, avoid a protracted session.

I have, etc.,

GEO. W. MERRILL.

[Inclosure 1 in No. 153.]

Nobles and representatives:

You have been called together in extraordinary session at the earliest practicable moment after your election under the new constitution, in order that you may revise and amend certain acts which have been found to be inoperative, unconstitutional, or conflicting in their terms. Amongst these are the opium bill and the act to organize the military forces of the Kingdom; also the law relating to notaries public and that relating to corporations.

Another reason is that you may consider the advisability of changing the method of administration of certain departments of the public service which do not now secure to the country the efficiency which is desirable.

The circumstances connected with the negotiation of the loan in London, which seems not to have been effected strictly in accordance with the loan act of 1886, will probably also necessitate some amendments thereto. A somewhat different distribution of the amounts appropriated for the objects named in that act may also be necessary, some of them being insufficient, whilst others are larger than required.

I also commend to your consideration the revision of the law regulating the police department in such a manner as to insure more efficient results and a more responsible administration.

My ministers will also propose to you some amendments to the appropriation bill of 1886, which seems to have been drawn up without due regard to the probable revenue, and you will see the necessity of curtailing salaries and other expenditures wherever practicable, as well as of abolishing all unnecessary offices, in order that the proper relation between the receipts and expenditures of the treasury may be preserved.

I take great pleasure in informing you that the treaty of reciprocity with the United States of America has been definitely extended for seven years upon the same terms as those in the original treaty, with the addition of a clause granting to national vessels of the United States the exclusive privilege of entering Pearl River Harbor and establishing there a coaling and repair station. This has been done after mature deliberation, and the interchange between my Government and that of the United States of an interpretation of the said clause whereby it is agreed and understood that it does not cede any territory, or part with or impair any right of sovereignty or jurisdiction on the part of the Hawaiian Kingdom, and that such exclusive privilege is coterminous with the treaty.

I regard this as one of the most important events of my reign, and I sincerely believe that it will re-establish the commercial progress and prosperity which began with the reciprocity treaty.

Nobles and representatives, I now declare the legislature of the Kingdom opened.

[Inclosure 2 in No. 153.]

REPLY TO HIS MAJESTY'S SPEECH.

Noble Dole, from the special committee of three, presented the following reply to His Majesty's speech:

Your Majesty, sire: We, the nobles and representatives of the Kingdom, have listened with pleasure to the sentiments which fell from Your Majesty's lips in the

speech from the throne on the opening of the legislature, and we beg to assure Your Majesty that the opium bill, the act to organize the military forces of the Kingdom, the law relating to notaries public and to corporations and other matters to which Your Majesty calls our attention, shall receive our careful consideration and action.

The circumstances connected with the negotiation of the loan in London shall be thoroughly investigated, and our decision be such as shall in the premises appear right and equitable and in strict conformity with the provision of the statutes. It shall also be our duty, in compliance with suggestions from the throne, to make such revisions and amendments in the law regulating the police department, and also in the appropriation bill of 1886, as shall secure a more responsible administration and a suitable regard for the national revenue.

Your Majesty may rest assured that the matter of an economical administration of the public service shall always be kept in mind in our deliberations and that our conclusions shall be such as an unselfish patriotism may dictate.

We desire to congratulate Your Majesty upon the successful issue of the negotiations of Your Majesty's Government with the United States of America, which have resulted in the definite renewal of the treaty of reciprocity for a period of seven years, and we take pleasure in expressing on this occasion our approval of the granting to the United States Government the exclusive privilege of entering Pearl River Harbor and establishing there a coaling and repairing station, it being a necessary condition for the securing of this valuable concession, while guarantying to the country a renewal of commercial prosperity. We feel great satisfaction in the assurance that it is without prejudice to Hawaiian jurisdiction, and we agree with Your Majesty that this event will ever be regarded as one of the most important of those which have signalized Your Majesty's reign.

The report was signed by the three members of the committee, George H. Dole, Dr. J. Wight, and A. P. Kalaukoa.

On motion of Representative C. Brown the reply was adopted and ordered to be engrossed.

No. 609.

Mr. Merrill to Mr. Bayard.

[Extract.]

No. 158.] LEGATION OF THE UNITED STATES,
Honolulu, December 15, 1887. (Received December 31.)

SIR: I have the honor to inform you that on the 12th instant quite an animated discussion occurred in the legislature regarding the right of His Majesty the King to veto bills passed by the legislature and presented to him for approval unless the veto be countersigned by a member of the cabinet.

On the 9th instant His Majesty, acting under authority of article 48 of the new constitution, which confers the veto power, returned to the legislature certain bills without his signature, giving his reasons therefor, notwithstanding the advice of his ministers to approve them.

The discussion arose on the question of adopting resolutions, introduced by Noble Castle, declaring it to be the sense of the legislature that the royal assent to the bills had not been refused, according to the intent and meaning of the constitution, for the reason that the message accompanying them was an act performed without the advice and consent of the cabinet and was not countersigned by a minister.

The resolution was finally adopted and a committee of thirteen was appointed, with the cabinet, to wait upon His Majesty and inform him of the action of the legislature.

During the day, and while the matter was under discussion in the legislature, His Majesty sent a communication to the justices of the supreme court inviting their opinions as to his constitutional rights in the premises, as in article 70 of the new constitution it is provided he may do.

The opinions of the justices will probably be given on the 17th instant. Considerable feeling over the subject has been engendered in the community, and during the pendency of the matter before the members of the supreme court the veto is the absorbing topic of newspaper and street discussion, accompanied with the usual variety of opinions and arguments for and against the right of the King.

What may be termed the radical element of the reform party insist that it never was the intention of the framers of the constitution to grant the King the right of veto independent of the cabinet, and that this position must be maintained in any event, otherwise the new constitution and the so-called revolution of June and July last accomplished nothing.

The advocates of the independent right of veto by His Majesty insist, on the contrary, that the restraining clauses of the constitution refer to executive acts only.

The articles of the constitution bearing upon the subject are 41–48, and 78.

While there are some insinuations of a determination to maintain the views expressed in the resolutions adopted by the legislature, regardless of the decision of the justices of the supreme court, yet, in quietly conversing with prominent business men and some members of the legislature, I find the general impression is that any attempt by the extremists to force a construction of the constitution in opposition to the views of the judges would not meet with public approval.

I feel quite confident that any attempt to repeat the demonstrations which brought about the promulgation of the present constitution would not receive the popular support given the leaders in June and July last.

In order that the Department may have a complete understanding of the temper of the discussion here, I inclose extracts of the proceedings of the legislature giving the resolutions presented by Noble Castle and the remarks thereon.

By the steamer leaving here on Tuesday next, the 20th instant, I hope to be able to forward you the decision of the judges of the supreme court on the questions at issue and acquaint you with the manner in which it is received by the legislature and the people.

I have, etc.,

GEO. W. MERRILL.

[Inclosure in No. 158.]

Extract of legislative proceedings, December 12, 1887.—*Resolutions on the veto.*

Noble Castle moved the following:

Whereas it appears by the records of the legislature of the 9th of December, 1887, instant, that the message of His Majesty the King accompanying the bills and forming the act whereby the royal assent was refused to the bills entitled, respectively, "An act to abolish the office of governor," and "An act to provide for the discharge of certain duties heretofore performed by the governors," which said bills have been duly passed by the legislature, is not countersigned by a minister; and

Whereas his majesty's ministers have stated to the legislature that such message and the action based thereon were made without the advice and consent of the cabinet; and

Whereas it is a fundamental principle of the constitution and of the system of government based thereon that the sovereign shall act in matters of state only through responsible ministers: Therefore, be it

Resolved, That it is the sense of the legislature that the royal assent has not been refused to the bills entitled, respectively, "An act to abolish the office of governor"

and "An act to provide for the discharge of certain duties hitherto performed by the governors," according to the intent and meaning of the constitution, and that said message and the action thereon based is of no effect; and be it further

Resolved, That said bills, with the message accompanying them, shall be, and are hereby, through the cabinet forthwith referred back to his majesty for such further or final action as may be necessary; and be it further

Resolved, That a committee of thirteen members of this assembly be appointed to wait upon his majesty with the cabinet, and inform him respectfully of the action of the legislature in the premises.

The resolution was seconded by Noble Waterhouse.

Noble Baldwin moved the resolution be adopted. Seconded by Noble Dole.

Representative Nakaleka moved indefinite postponement.

Noble Castle said: The issue presented is very grave and must be decided only after careful and exhaustive discussion and examination. It calls for a construction by the legislature of the true intent and meaning of the constitution. It is to be regretted that so many important matters have been brought forward at this session, when the constitution is young, the legislature inexperienced, and the government hardly in full grasp of the reins of control under the new order of things. But, have it as we would, the issue has arisen and must be decided.

The question is placed before us and we must indicate what, in our opinion, are the limitations upon the power of the King? What are the limitations upon the legislative power? Whose is the legislative power of the kingdom? The honorable member for Molokai, Mr. Nakaleka, resents this as a thrust at the King. He says that we can not compel the King to do or not to do anything. The honorable member must be reminded that in this matter the legislature is not the inferior of the King. It stands as his equal, and may express its opinion as to the legality and constitutionality of his acts.

In this country we have had a government which, in the short space of a generation, has progressed from an irresponsible monarchy to the constitutional government of a free people. The constitution and laws of 1839 were a recognition of the existence of rights inherent in the people. The constitution of 1852 admitted still more of those rights. The constitution of 1864 was an attempt to abridge and curtail them, and, so long as the administration under that constitution was for the general good of the public, no one suffered and the abridgment of public right was not appreciable. But when the powers and abuse of popular right possible thereunder began to press upon the people, they arose and demanded reformation and recognition of public right. The constitution of July, 1887, is the answer, and by it we have obtained and intend to retain the right to make our own laws and to have a true representative and responsible government.

While our system of constitutional government is in many respects peculiar to ourselves, yet we can not avoid comparison with other countries under the reign of constitutional law. Our system resembles that of Great Britain, the mother of all freedom, rather than that of the United States of America. In the latter no cabinet, as of constitutional right, sits with and as a part of the legislature or Congress. The Executive is not represented in any respect in the legislative department. In this country, as in England, the cabinet forms a part of the legislature and is responsible to it. Here the cabinet is not elective, but our present fundamental law expressly makes the cabinet responsible to the House, and if not in accord, the King must remove them upon a vote of want of confidence. In England the cabinet is composed of elective members of the Parliament, at least as to a portion of them. No cabinet in the United States can be removed by the law-making power. Here and in the British Empire the cabinets are made and unmade by the legislature.

The veto power is given by the constitution of each of the United States to the governors, and by that of the Federal Union to the President. That power is frequently exercised. It can be overcome by a two-thirds vote of the legislature, and if such vote can not be obtained and the veto power is exercised contrary to public policy, the people simply wait for a short term, until the expiration of the term of office of the President or governor when another man is elected whose views are in accord with such policy. But no such relief can be had in a constitutional monarchy; the sovereign reigns till death ensues, and in some senses this might be called forever.

In England the veto power may be said to exist as one of the prerogatives of the crown, but it has not been exercised since 1707, during the reign of Queen Anne, and, in fact, the power is obsolete. No sovereign of England would dare to nullify the act of the Parliament. It will not and can not be done so long as the principle of responsibility exists. This principle is what our constitution establishes. It is for this that the country arose as one man in June last, and compelled the recognition of these principles in the grant of the new constitution.

Without a review of the growth of this principle of responsible government, we now come to the question of what is the proper construction of our constitution.

Does it not appear to conflict in any of its clauses? The rule of construction must be so exercised as to give force to all of its points if possible. If this requires the limitation of any part, such limitation will be placed upon such part in order that it may have effect. If parts are totally repugnant, the clauses last in time and place will control. These laws are recognized in England and the United States, and are admirably laid down in Cooley's Constitutional Limitations, p. 71, etc. With these rules in view, we find that the act of withholding of assent to a bill by the King can be performed by and with the advice and consent of the cabinet, and that without such advice and consent such act can not be exercised without violence to the letter and spirit of the constitution. If the King can by his acts, without the advice of his cabinet, which is responsible, or contrary to such advice, render null the act of the legislature, then we return to the condition from which we escaped in July last, and all of our trouble returns to us again. If our constitution means anything; if responsible government is not a delusion; if we gained anything by our new system, it is that the King acts by and with the advice and consent of the cabinet, and for these reasons I introduced the resolution and advocate its passage.

Representative Paehaole saw nothing in the constitution requiring the King's veto to be countersigned by one of his ministers. He was of opinion that the King had complied with the constitution, and that the ministers were to blame.

Noble Widemann said the introducer of the resolution had evidently convinced himself that his views were correct; but he had failed to convince him, the speaker. The veto was a judicial act. Article 41 was intended for executive and not for judicial acts. This resolution is an uncertain solution of the question. When they get the supreme court decision we shall have a full solution of the question.

Representative Paehaole opposed the resolution.

Noble Townsend said: All political power emanates from the people. This is the Anglo-Saxon idea. It is the idea which first developed into political liberty in England. It is the idea which animated the revolutionary fathers in America. It is the idea which led to the downfall of the despotism of the Bourbons of France. It is the idea which has been shaking all Europe periodically for generations. It is the idea which aroused unbounded enthusiasm in the greatest people's meeting ever held in these islands, on the 30th day of last June. This idea is prevailing and has been prevailing over all opposing ideas for ages. Sometimes it prevails quietly, and sometimes amid commotion, as when an unwilling King signed the first great Charter of English liberty at Runnymede. In form King John granted this measure of liberty to the people. In reality he signed the charter as it was presented to him, and that to save his throne, if not to save his life. In early days the opposite feudal idea, that all political power emanates from the throne, was acknowledged as the foundation of the government of these islands. That theory of utter irresponsibility to the people developed the state of affairs which prevailed here just before the memorable mass-meeting. Then the people arose in their might and put down that state of affairs. They not only demanded that incompetent and bad officials be dismissed, but they struck deep at the root of the evil. They demanded that the whole system be changed from its very foundation. They demanded of the King—for their request was nothing less than a demand—"(1) That he will not in the future interfere either directly or indirectly with the election of representatives; (2) that he will not interfere with or attempt to unduly influence legislation or legislators; (3) that he will not interfere with the constitutional administration of his cabinet." On the 1st day of July His Majesty answered the people, granting all that they asked. He consented also, specifically, to a new constitution. And why did the people want a new constitution? They wanted the principles which they had demanded so earnestly incorporated into the organic law of the land. We all remember what enthusiasm was displayed on that occasion. Even the most extravagant speeches were applauded, as speeches were never before applauded in this land.

The constitution was promised and the excitement subsided somewhat. But we remember with what deep interest all awaited the appearance of that document. It is an open secret that the work of framing the constitution was given to some of our wisest and shrewdest men, to embody in it the principles which the people had contended for. And they did it. And it was eagerly that the people looked for the result of their work. I remember when the constitution was first printed. I seized a copy of it and spread it on the table and read it through, eagerly looking to see if we had gained our point. I read on and on, seeing little changes—some good, some doubtful. As I approached the end my heart sank within me. At last I came to article 78. It was a shock to me. We had it after all. I felt like the wag who read it through with complaints and maledictions till he came to article 78, when he started up with the exclamation, "I didn't know it was loaded!" It was loaded, Mr. President, and it is loaded yet.

I looked back over the sections and read:

"The King convenes the legislature, etc." "The King has the power to make treaties." "The King coins money, etc." But I found article 30 different in wording

from all others. It reads: "It is the King's prerogative to receive and acknowledge public ministers; to inform the legislature by royal message, from time to time, of the state of the Kingdom; and to recommend to its consideration such measures as he shall judge necessary and expedient." Here are three acts which are said to be the King's prerogative. Now, prerogative simply means irresponsible power. These, then, are the powers for the exercise of which no one can be held responsible. These are the exceptions referred to in article 78. And it is the plain inference from this statement that other powers spoken of are not prerogative.

Article 44 says, "The legislative power of the Kingdom is vested in the King and the legislature, which shall consist of the nobles and representatives sitting together." How comes it that four gentlemen (the ministers) sit opposite me and join in the actions of this house? Are they nobles? Are they representatives? No, they are the cabinet. They have a right to sit in this house under article 42 Does article 42, then, contradict article 44, or does it explain it? It certainly does one or the other. I hold that it simply explains. The gentlemen before me sit as representatives of His Majesty. It is through them that he exercises his legislative power.

Again, article 42 says "The cabinet hold seats *ex officio*, in the legislature, with the right to vote, except on a question of want of confidence in them." There is absolutely only one class of questions, then, on which they may not vote, and that embraces questions of want of confidence in them and nothing more. Yet article 48 plainly implies that they may not vote on the passage of a bill without the royal signature. The natural and necessary inference from this is that the cabinet is responsible for the exercise of the so-called veto power. If they exercise that power and the legislature votes them down on it, two to one, then it is certainly time for them to step down and out. Article 78 explains how they can be held responsible; for it is utterly unreasonable to hold any set of men responsible for acts not their own. "Wherever by the constitution any act is to be done or performed by the King or the sovereign it shall unless otherwise expressed, mean that such act shall be done and performed by the sovereign by and with the advice and consent of his cabinet." This is the key to the whole constitutional question, and I shall not discuss it further.

Mr. President, nearly all of us are representatives of those who took part in and carried forward the movement of the 30th of June and the early days of July. Those who spoke so fervently and those who applauded so heartily at "the great mass-meeting," and those who sustained the movement in other districts, are our constituents. To-day they demand of us that we maintain the principles which they then established. We must not prove false to our great trust. Only one thing more. Where political power is exercised the people will hold the person who exercises it responsible, no matter what a written constitution or written law may say about it. We had an illustration of that on the 30th of June. A man who by the constitution could not be held accountable for his actions, was then and there called to account at the bar of public opinion. And whoever wields political power in this land will be held responsible for it, either at the bar of this house, or in the courts of justice, or at the bar of public opinion. We can not have another 30th of June. We can not have another 1st of July. The occurrences of those days will never be repeated. Any attempt in that line will bring about results disastrous in the extreme. We must guard against whatever looks toward such a thing. For the sake of our constituents, and for the sake of our King, we ought to take a firm stand now and avert future disaster and maintain the peace of the land.

Noble Smith said: This is a question of the right of the King to act in defiance of his cabinet and of the majority of the legislature; of acting on a vital matter. He has attempted to exercise the "veto" power against the advice of his ministers. This is clearly contrary to the constitution. The veto power of the President of the United States has been referred to. Mr. President, the President of the United States has no such irresponsible power as the King seeks to exercise. The President of the United States is elected by the people for a definite period of four years, and if he has not satisfied the people he is not permitted to occupy the Executive seat again.

While he is the President he is the Executive. But how is his power held responsible to the people? Not only by the power of Congress to pass the law over a veto by a two-thirds vote, but he is liable to impeachment at any time.

Our King is not liable to impeachment. His power "is inviolable and sacred." He can not be held responsible in a court. The President of that Great Republic of sixty millions is liable as any citizen.

We have placed our King above responsibility, but for the protection of the people we have given him authority only in conjunction with ministers who are responsible, ministers whom the people can remove at any time.

It is the highest loyalty to seek to save the King from the result of the bad advice he has received.

It is loyalty to the throne, loyalty to the people, and loyalty to ourselves.

Those who desire to perpetuate the autonomy and independence of this Kingdom must demand that responsible government be maintained. Responsible government means accountability to the people.

The King is accountable only through the ministers. His person "is inviolable and sacred." His ministers "are responsible."

If he has the power to veto a bill in defiance of his ministers, he has the power to do every other act in defiance of them, and article 78 of the constitution is meaningless.

He can suspend the writ of *habeas corpus*, make treaties, coin money, etc., and becomes the sole executive power notwithstanding article 31 of the constitution, which states, "To the King and the cabinet belongs the executive power."

It is the old conflict of the throne reaching after prerogatives in opposition to Parliament. It is the hopeless contest which arbitrary and despotic rulers have waged with the people.

It is hopeless, for the people will prevail in the end.

The King has been influenced by unwise and irresponsible advisers.

It is the height of folly and madness. If this course is persisted in, the result is as certain as the triumph of right and freedom.

The principles of responsible government will be maintained, and every obstacle will be removed.

Of all persons, the Hawaiians in this house should pause and ponder, and with every power seek to influence the King to reconsider his action and recall his ill-advised step. Their hope, the national existence of the Hawaiian people, depends on the preservation of responsible government.

The merits of the bills which were returned to the house are lost from view in the magnitude of the issue involved in the course adopted by the King.

There was no uncertainty as to the meaning of the demand of the people on the 30th of June, "that he will not interfere with the constitutional administration of his cabinet."

There was no uncertainty in the King's response: "We reply that the specific pledges required of us are each severally acceded to."

There is no uncertainty as to the meaning of article 78 of the constitution, requiring the "advice and consent of the cabinet" to every act to be "done or performed by the King," and there is no uncertainty as to the final result of the issue now raised by the King and his unwise advisers.

The people had power to make the new constitution, but if they have not the power to maintain it in its integrity and purity, the independence of these islands is doomed—is doomed to hopeless oblivion.

Not by way of threat, but to call attention to one of the peaceable remedies which the people, through their representatives, may be compelled to assert, I say that if the reasonable request of this resolution is not heeded, this house will have to consider the course to pursue in regard to the appropriation bill at the regular session. The rights of the people must be preserved.

Minister Thurston said that, as a minister of the Crown, it would be proper for him to be duly conservative in what remarks he might make. This was a question that had been contested in every age and in every land, and in every instance the cause of the people triumphed.

In 1820 Kamehameha ruled as an absolute monarch, and had the power of life and death. There are no people here now who believe that prerogative was right. And yet in that time the great mass of the people thought it was all right; that the King had the "divine right" to do as he pleased.

The minister reviewed the history of prerogative down to the constitution of 1852, and the kings who ruled under it until the beginning of the present reign. People did not feel the weight of prerogative until then. Even since the accession of the present monarch the prerogative has been gaining ground. Session after session of the legislature produced new laws enlarging the King's powers, until at length the majority of the legislature became a set of puppets.

Coming to the present constitution, his excellency stated that the golden thread running through the whole document was "responsible government." His idea of responsible government was that no one could be invested with any power whatever unless he was responsible for his acts to the people. It is absurd for us to assert that we have a responsible government if our legislative acts are to be abrogated by a personal veto.

The honorable member referred to the tremendous opposition in the British Islands to the coercion act, but there was no veto heard of in connection with it. The New England colonies resisted the King's power on the principle of "No representation, no taxation," although the whole amount of their tax was only £80 a year. Our rallying cry must be, "No responsibility, no power," and we must insist upon that idea being carried out.

The principles contended for by the American revolutionists are the same principles that we are called upon to maintain to-day. The question before us is as important to us as the issue of the Revolution of 1776 was to those engaged in it.

The gauntlet of prerogative was thrown down to us about the first of the year, when

we were asked, "What are you going to do about it?" We took it up and showed what we meant to do about it. Now the gauntlet is thrown down again, and it remains to be seen what we can do about it.

Noble Widemann said that there is no use in our discussing what we would like to have in the constitution. The matter ought to be referred to the supreme court; that was the proper place to have it settled. He moved the question "Whether the King has the right of veto without the advice of his ministers" be referred to the supreme court.

Representative Kauhi could see nothing in the constitution or laws requiring the appointment of a committee as proposed in this resolution.

Minister Green said that for the past six years there had been constant trouble caused by the King acting contrary to his ministers and to the legislature. Legislatures had indorsed ministers and the King had next day turned them out. He is prevented from doing this to-day, but he is vetoing a bill contrary to the cabinet and the legislature together. It might be said that he ought not to speak in this way, being a minister, but there were times when one ought not to keep back what ought to be said. He wished to be friendly with the King, as he had always been. But there was no friendship in not telling him the whole truth and placing before him the facts as they stand. If there are friends of the King in the house, he would say to them that there are difficulties ahead of his majesty which he does not foresee if he takes a position opposed to the legislature and rejects the advice of his ministers. His taking a position of antagonism to the legislature and the ministers is fraught with the greatest danger to the whole country. Whether the step proposed in this resolution is the best one to take he was not prepared to say, but he hoped the legislature would take some means of effectively advising his majesty to take a course different from that he had taken.

Representative Kinney said that the house had committed itself and the ministers had committed themselves. We are all in the stream. Let us carry this thing through. About submitting this question to the supreme court; whatever the supreme court may decide this house is equal to them and must give its voice on the question. If we draw back from this resolution, we indicate that his majesty is equal to two-thirds of the house and two-thirds of the country. By this resolution we give advice as to how his Kingdom can go on. The committee of thirteen can go to his majesty and present this resolution as the will of this house, from which the house will not go back. How do honorable members who oppose the appointment of a committee propose to send this resolution; in a wheelbarrow? He would not vote for the resolution if it meant for the committee to go over to the palace and wrangle. It is a weak, pitiable, and miserable move for the house to attempt to hide itself behind the supreme court. The judges of the supreme court can not help us. He did not want to indulge in personalities about the King, nor he did not believe in currying favor with the King. He would acknowledge all the rights of the King, but he would expect the King to treat us like men. If this thing goes on there will be a continuous personal friction between the King and the people. If his majesty means by this act that he has the right of veto as in former years, it means that the will of the King will be the will of any rascal that can sneak in at the back door and gain the King's ear. The King has not heard much of a rumble yet, but if this and other bills are vetoed and the vetoes can not be overcome by a two-thirds vote, there will be a noise that will be a torment to King and people. We mean that the King shall stay on his throne and we will settle our own affairs.

Noble Young said it was all but impossible to get twelve men to agree on a small matter, and it is no wonder if all the members of this house can not agree on a great matter. He thanked God he had not so much legal education as some lawyers. Any one can see what this constitution means, but no one can see it who does not want to. He wished to say to Hawaiians in the house that it was his desire to maintain them in their rights. He wanted to make it impossible for any miserable sneaks to be continually crawling about the King, to overturn the throne and the King with it. Until within the past few days his majesty understood this article of the constitution precisely as we did. If God would take care of the King's false friends he might take care of his enemies himself. About abiding by the decisions of the supreme court; if this were given to two lawyers, one would say it was white, the other that it was black. But this pamphlet, the constitution, is plain reading. The object of the revolution was to prevent King Kalakaua from running this nation to destruction without putting some break upon him. The intention of the reform was that the King reign over us by the advice of his ministers. It was to put him in such a position as to prevent him from perpetrating acts such as those of late years, which would have involved the destruction of the county and himself. His majesty has the respect of the community only so long as he will abide by the constitution.

Dr. Wight said: If he was not strongly opposed to the previous question he should have moved it heretofore. The longer they talked the hotter they became. He deprecated the intemperate language that had been used. Civility was a cheap

commodity, and it was with profound regret he heard the language used by the member for Hamakua.

Representative Kinney rose to a question of privilege, saying he was unaware that his language was intemperate.

Noble Wight considered the honorable member's language partook of a threat. Civility was a cheap commodity; therefore, the question should be put as soon as possible. He did not consider the King was singular in the construction he put upon the constitution. He looked upon the matter in the same light as his majesty. It would be extremely hard to come down upon the King for standing up for his privileges. He was quite in accord with the mover of the resolutions as to sending a committee to represent, if it was so deemed, that the King had been maladvised.

The motion to indefinitely postpone the resolution was put and lost.

The motion to refer to the supreme court was lost.

The resolution was adopted by the following vote:

Ayes—Green G. Brown, Thurston, Ashford, Robinson, Young, Jaeger, Castle, Smith, Waterhouse, Foster, Wight, Notly, Wall, Townsend, Baldwin, Bailey, G. N. Wilcox, Dole, Hustace, Dowsett, jr.; Kalaukoa, Kinney, Helekunihi, Kawainui, A. S. Wilcox, Rice, and Gay—28.

Noes—Richardson, Campbell, Widemann, Naone, Kauhi, C. Brown, F. Brown, Kamai, Kamauoha, Nakaleka, and Paehaole—11.

The following were appointed committee of thirteen: Nobles Castle, Baldwin, Wilcox, Wight, Robinson, and Representatives Kinney, Kamauoha, Rice, F. Brown, Naone, Kamai, Gay, Dowsett, jr.

No. 610.

Mr. Merrill to Mr. Bayard.

[Extract.]

No. 159.] LEGATION OF THE UNITED STATES,
Honolulu, December 16, 1887. (Received January 3.)

SIR: I have the honor to inform you that on the 26th ultimo the announcement by His Excellency Godfrey Brown, His High Majesty's minister of foreign affairs, to the legislative assembly that the supplementary convention extending the reciprocity treaty for a term of seven years had been concluded, was received with marked manifestations of approval.

On the 7th instant a member of the legislature propounded several questions to his majesty's cabinet, principally directed to the ascertainment of the facts upon which was based the statement, in the speech of his majesty at the opening of the legislature, to the effect that article 2 of the supplementary convention is conterminous with the treaty of reciprocity, to which the minister of foreign affairs replied at length on the following day.

The question and the reply thereto I inclose herewith.

I have, etc.,

GEO. W. MERRILL.

[Inclosure 1 in No. 159.]

Extract from legislative proceedings December 7, 1887.—*Pearl River Harbor.*

Representative Daniels propounded the following questions to the cabinet:

In His Majesty's address to the legislature it is stated that the exclusive privilege granted to the United States of maintaining a coaling station at Pearl River Harbor is coterminal with the reciprocity treaty.

Was the information given to His Majesty by the cabinet ministers?

If not, by whom was it given?

Which clause of the treaty warrants the making of such statement?

If no clause of the treaty warrants the statement, will the minister of foreign affairs explain to the house upon what facts it is founded?

Did the minister of foreign affairs state to Her Britannic Majesty's commissioner that such cession of privilege was coterminal with the reciprocity treaty?

Is the action of the cabinet in respect of this cession not calculated to create treaty complications with the other great powers?

Does the ratification by the Hawaiian Government of the treaty contain any saving clause against misconstruction of Article II of the same, so as to show that the cession of Pearl River Harbor is not perpetual?

At 12 o'clock the house took a recess.

[Inclosure 2 in No. 159.]

Extract from legislative proceedings December 8, 1887.—*Pearl River Harbor.*

Minister Brown presented the following statement:

DEPARTMENT OF FOREIGN AFFAIRS,
Honolulu, December 8, 1887.

Hon. S. G. WILDER,
President Legislature, 1887:

SIR: In reply to the honorable member for Wailuku (Hon. W. H. Daniels) I have the honor to state that the paragraph in His Majesty's address to the legislature was founded upon the information received and the advice given to His Majesty by His Majesty's ministers. The paragraph referred to says that "after mature deliberation and the interchange between my Government and that of the United States of an interpretation of the said clause whereby it is agreed and understood that it does not cede any territory or part with or impair any right of sovereignty or jurisdiction on the part of the Hawaiian Kingdom, and that such exclusive privilege is coterminous with the treaty," and that "the treaty of reciprocity with the United States of America had been definitely extended for seven years upon the same terms as those in the original treaty."

The notes exchanged between Mr. Carter and Mr. Bayard in regard to the construction and interpretation of the United States Senate amendment were accepted as sufficient to justify His Majesty's Government, relying upon the good faith of the United States in adopting the amendment. These notes are hereafter referred to.

On October 19, 1887, I had the honor to state to Her Britannic Majesty's commissioner, in a dispatch to him on this subject, that "all rights, the sovereignty and independence of this Kingdom are to be conserved, and moreover the privilege sought for by the so-called Pearl Harbor clause is to be coterminous with the reciprocity treaty."

Since, under article 4 of the original convention of 1875, such a privilege could not have been conceded to any other power, the status of other nations possessing treaties with Hawaii is unchanged by the preferential character of the article, and in no other respect has any preference been given which has not hitherto been enjoyed by the United States.

There is no "saving clause" in the ratification by the Hawaiian Government against "misconstruction." The reliance is placed upon the good faith of the United States Government to adhere to the notes of interpretation through which the exchange of ratifications was agreed upon. In the event of any doubt appearing as to the true intent and meaning of any clause or part of a treaty notes explanatory thereof have been exchanged prior to ratification, and these notes have afterwards been held to give the true interpretation of the clause held to be vague or ambiguous. There are precedents for this course and in the notes exchanged between His Majesty's minister plenipotentiary at Washington and the honorable Secretary of State prior to the exchange of ratifications, which I have had the honor to place before the legislature, Mr. Carter says: "The amendment which you now officially communicate to me was inserted into the convention in secret session of the Senate, and no opportunity was given for mutual consultation and consideration of its terms; consequently my Government has had no part in its construction, and could not have suggested any changes in its wording to guard against misapprehension. Under these circumstances it becomes proper in me, before transmitting it to my Government, to ascertain the views of the Government of the United States as to the construction proper to be put upon the interpolated article,

"The first question of construction has reference to the effect of the license or right to enter the harbor of Pearl River upon the jurisdiction of the Hawaiian Government over the harbor. It would seem to be clear that the question of Hawaiian jurisdiction is left untouched by the article, and that in the event of the United States availing itself of the right stipulated for, the autonomous control of the Hawaiian Government remains the same as its control over other harbors in the group where national vessels may be, except that the article, in accordance with Article IV of the existing convention, prevents the Hawaiian Government from granting similar exclusive privileges during the continuance of the convention to any other nation."

"As no especial jurisdiction is stipulated for in the article inserted by the Senate it can not be inferred from anything in the article that it was the intention of the Senate to invade the autonomous jurisdiction of Hawaii, and to transfer the absolute property in and jurisdiction over the harbor to the United States.

"To satisfy the natural and proper susceptibilities of Hawaiians, of which I have heretofore informed you strong intimations have emanated from those charged with the administration of my Government with their communications to me, I take occasion to say that I consider it probable that my Government will desire that its understanding of the article in this respect shall be made known to the Government of the United States.

"Another point which to some minds may be left in doubt would be the duration of the license or right granted by the interpolated article.

"The article mentions no special term for continuance of the privileges, but as the whole and only purpose of the convention into which the article was inserted was, as stated in its preamble, to fix the definite limitation of the duration of the existing convention providing for the reciprocal exchange of privileges, to which this privilege is added by virtue of this interpolated article, it follows in the absence of any stipulation to the contrary that its term of duration would be the same as that fixed for the other privileges given by the original convention.

"The only excuse for the insertion of such an article into a treaty of this nature would be its relevancy to the privileges stipulated for in the original convention of 1875, to which this is supplementary, and the duration of which this convention is intended to limit and define.

"No separate single article or part of a treaty can be held to have a continuing power apart from the rest of the treaty unless provided for in specific terms. The supplementary provisions and the original provisions which they effect are necessarily merged into one instrument, to be dealt with throughout as a whole.

"It could not have been expected in the Senate that Hawaii would consent to a perpetual grant of the privilege sought in return for a seven years' extension of the treaty of 1875, especially in view of the danger of a material lessening of the advantages to Hawaii by changes in the tariff laws of the United States, and it must be apparent that if any different term of duration was intended it would have been stipulated for, as it can not be thought that the Senate had any other intent than that plainly set forth.

"Therefore the conclusion which I have reached, and which I think is the obvious conclusion to be drawn from the words of the interpolated article, is that it does not and is not intended to invade or diminish in any way autonomous jurisdiction of Hawaii, while giving to the United States the exclusive rights of use in Pearl Harbor stipulated therein for the sole purposes stated in the article, and further, that the Article II of the convention and the privilege conveyed by it will cease and determine with the termination of the treaty of 1875, under the conditions fixed by this convention.

"I apprehend that my Government will agree with my conclusions, and that in considering the advisability of ratifying the convention with this amendment inserted by the United States Senate, my sovereign will doubtless be aided in coming to a favorable conclusion if it shall be found that on these questions in interpretation of the convention the two Governments do not differ, and the Hawaiian Government will doubtless desire that their understanding, which I believe I have set forth in this note, shall be fully understood by the Government of the United States before ratifications are exchanged."

To which note Secretary Bayard replied as follows:

"The amendment relating to the harbor of Pearl River was adopted in the executive session by the Senate, and I have no other means of arriving at its extent and meaning than the words employed naturally import.

"No ambiguity or obscurity in that amendment is observable, and I can discern therein no subtraction from Hawaiian sovereignty over the harbor to which it relates, nor any language importing a longer duration for the interpolated Article II than is provided for in Article I of the supplementary convention.

"The limitations of my official powers do not make it competent for me in this connection to qualify, expand, or explain the amendments ingrafted on that convention by the Senate, but in the present case I am unable to perceive any need for auxiliary

interpretation or ground for doubt as to the plain scope and meaning thereof, and as the President desires a ratification of the supplementary convention in its present shape I can see no cause for misapprehension by your Government for the manifest effect and meaning of the amendment in question.

"I therefore trust that it will be treated as it is tendered, in simple good faith, and accepted without doubt or hesitation."

As the notes above referred to are regarded as being a correct interpretation of the construction of the amendment His Majesty's Government have accepted them in reliance that the United States Government will sustain the expressions of opinion of the present Secretary of State.

Respectfully submitted.

GODFREY BROWN,
Minister of Foreign Affairs.

The statement was ordered to be translated for the benefit of the Hawaiian members.

At 11.55 the house took a recess.

No. 611.

Mr. Merrill to Mr. Bayard.

[Extract]

No. 160.] LEGATION OF THE UNITED STATES,
Honolulu, December 17, 1887. (Received January 3, 1888.)

SIR: I have the honor to inclose herewith copy of a bill, entitled "An act to authorize the Hawaiian Government to contract for the construction of international and interisland submarine telegraph cables," which has passed the legislature and received the approval of His Majesty the King.

The printed text is the original bill and the interlineations, in red ink,* represent the amendments adopted.

The original bill was in the interest of Mr. Audley Coote and the Canadian Pacific Railway, but it being suggested that it might be desirable to have a cable reach these islands from some point on the coast of the United States, the exclusive right and privilege to land a cable reaching to or from any foreign nation was stricken out and confined to British territory, which, with other amendments adopted, it is now stated by the friends of the original bill render it valueless to Mr. Coote, and it is probable he will not care to enter into a contract with the Hawaiian Government under the provisions of this bill.

There is a strong popular feeling here in favor of connecting these islands with the North American continent by cable and of rendering financial aid in the work.

My observations convince me that a telegraph cable, under the control of American citizens, connecting these islands and America, with a terminus on the coast of the United States, would be of great value to this country and our interests here, by reason of its influence in quieting the unrest natural to a segregated, ocean-bound community, confined to a limited area, and by bringing the people in daily contact with affairs in the United States and the world at large.

I have, etc.,

GEO. W. MERRILL.

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* Indicated by brackets.

[Inclosure in No. 160.]

AN ACT to authorize the [Hawaiian Government] to contract for the construction of international and interisland submarine electric telegraph cables.

Whereas it is desirable to establish, as soon as practicable, telegraphic communication between this Kingdom and the North American continent, and the Australasian colonies of Great Britain, and between the different islands of this Kingdom;

And whereas [certain persons are] now engaged in the perfecting of plans for the construction and maintenance of a telepraphic cable or cables from some point on the North American continent, through the Pacific Ocean, to certain of the Australasian colonies of Great Britain;

And whereas it seems necessary to the speedy establishment of such communication with foreign shores that the parties establishing the same shall be granted certain exclusive rights as to the landing of telegraphic cables on our shores: Now, therefore,

Be it enacted by the King and the legislature of the Hawaiian Kingdom, SEC. 1. The minister of finance, [with the concurrence of all the members of the cabinet,] is hereby authorized to enter into a contract with the honorable Audley Coote, of Tasmania, his associates and assigns, [or with any other persons or corporations,] for the construction and laying of a submarine electric cable, from and between some point on the North American continent and some point upon one of the islands of this Kingdom, and for the construction and laying of a like cable or cables between the different islands of this Kingdom, in substance as hereinafter provided.

SEC. 2. Such contract may by its terms provide for the grant, concession, and confirmation by the Hawaiian Government, to the honorable Audley Coote, his associates and assigns, [or any other persons or corporations] (hereinafter named and referred to as said constructors), of the sole and exclusive right and privilege to construct or land a submarine telegraph cable or cables which shall reach to or from any [British possession or colony] upon the shores of any island of the Hawaiian group for or during a period not exceeding three years from the first day of [January, 1888.]

Provided, however, That if the said minister of finance, at any time after the first day of August, 1889, shall [require] assurances from such constructors that such cable shall be completed from some point on the North American continent to some island of the Hawaiian group, not later than the first day of August, 1890, and the said constructors, upon such request being made, shall fail to give such assurances in that behalf as shall be satisfactory to the Hawaiian Government, then the exclusive right and privilege, the grant of which is hereinbefore authorized, shall, at the option of the said [cabinet,] at once, or at any time thereafter, lapse and become void, upon notice to that effect being given to the said constructors.

And further provided, That the concession and grant hereinbefore authorized shall not be so construed as to disable, prevent, or preclude the Hawaiian Government from consenting to the laying or landing through its waters, or upon its shores, of any submarine telegraph or other electric cable or cables which, during the period of three years hereinbefore mentioned, shall be constructed or laid, or sought to be constructed or laid, or landed upon Hawaiian shores, by or on behalf of any foreign nation or power.

SEC. 3. Such contract may further provide for the payment by the Hawaiian Government to said constructors of an annual subsidy not to exceed twenty thousand dollars in legal tender of the Hawaiian Kingdom, for and during a period not to exceed fifteen years from the date of the establishment, over such cable, of telegraphic communication between the city of Honolulu and some point on the North American continent: *Provided,* That such communication shall be established not later than the first day of [January, 1891.]

SEC. 4. The grant of any of the rights or privileges and the payment of any subsidy hereinbefore authorized shall be conditioned upon the covenants of said constructors, to be expressed in such contract, [that is to say]—

(1) That during such period after the establishment of telegraphic communication by and over such cable between Honolulu and the North American continent as the minister of finance shall pay such subsidy as is hereinbefore authorized, the messages of or for the Hawaiian Government shall be received and transmitted and delivered by and over such cable free of charge: *Provided, however,* That if the expense of so receiving, transmitting, and delivering suc hmessages, when computed at [half] the rate at which, when such messages shall be transmitted, ordinary press messages shall be transmitted over such cable, shall exceed the amount of the annual subsidy paid or contracted to be paid as hereinbefore authorized for any year, then the excess of such expense shall be paid by the said minister of finance to said constructors.

(2) That said constructors shall not make or form or permit any combination, pool, or other agreement with any other person, body, company, or syndicate who or which shall hereafter own or operate any cable or cables through or across either the Indian

or Pacific Ocean to or from the Australasian colonies of Great Britain, or to or from the Hawaiian Kingdom, the effect or purpose of which combination, pool, or other agreement shall be to advance or increase the rates of telegraphy to or from the Hawaiian Islands, by or over any cable which shall be laid or constructed to or from the Hawaiian Islands by the said constructors.

(3) That the rates for the transmission of messages to and from the Hawaiian Islands by and over any cable which shall be laid or constructed by said constructors shall not exceed the following-described limit, that is to say:

(4) For all messages other than Hawaiian Government and press messages, to or fro between the point of such cable's connection with the American telegraph system and Honolulu, not more than forty per cent. of the rates which shall be charged for like messages over such cable to or fro between said American point and any point in New Zealand or Australia.

(5) For like messages to or fro between Honolulu and the point or points of such cable's connection with either the New Zealand or the Australian telegraph systems not more than sixty per cent. of the rate which shall be charged for like message, over such cable to or fro between either said New Zealand point or said Australian point and said American point.

(6) The rates for ordinary messages or items of news to any newspaper or news bureau of the Hawaiian Kingdom (commonly known as press messages) [shall not exceed one-half the rate which shall be charged for other messages, excepting] messages to or from the Hawaiian Government or any [officer] thereof, in his official capacity.

(7) All messages other than Hawaiian Government and press messages shall be transmitted at and for one and the same rate.

(8) In no case or instance shall any message over such cable, to or fro between the Hawaiian Islands and any foreign port or point, be charged for at a greater or higher rate than shall prevail in the case of a like message over such cable to or from any other point equally or more remote from Honolulu.

SEC. 5. Such contract shall further provide and contain, as a part of the consideration for the grants and subsidy hereinbefore authorized, a covenant on the part of said constructors to furnish, and within six months after the completion of said cable [and the] establishment of telegraphic communication thereover to any American or Australasian point or port, at their own proper charge and expense to lay and construct a cable or series of cables to connect the islands of the Hawaiian group from Hawaii to Kauai, as follows, to wit: From Hawaii to Maui, from Maui to Oahu with a landing on Molokai, and from Oahu to Kauai.

SEC. 6. Such interisland cable or cables shall be landed upon such islands, in such reasonable manner, and at such points as shall be designated by the cabinet and when so laid, constructed, and landed, shall be delivered to the minister of the interior for and to the use of the Hawaiian Government, at a price not to exceed the actual cost of such cable or cables delivered on board ship at the place of its or their manufacture.

SEC. 7. Said constructors shall be entitled to the use, at a rate not to exceed the usual local rates, of any such interisland cable or cables, together with any and all shore-lines connecting the same, for transmission of messages to and fro between Honolulu and the point or points of the landing of their international cable or cables.

SEC. 8. Upon the construction and delivery to the minister of [the interior] of such interisland cable or cables as provided by sections 5 and 6 of this act, and the establishment of telegraphic communication thereover, the minister [of finance] shall be authorized to pay said contractors the actual cost price thereof, to be computed as provided in section 6 of this act.

No. 612.

Mr. Merrill to Mr. Bayard.

[Extract.]

No. 161.] LEGATION OF THE UNITED STATES,
Honolulu, December 20, 1887. (Received January 3, 1888.)

SIR: Regarding the question of the constitutional right of his majesty the King to exercise the veto power, submitted to the justices of the supreme court, and referred to in my dispatch No. 158, of the 15th instant, I have the honor to inform you that the four judges are equally

divided in opinion, and have informed his majesty that they are unable to advise him in the matter, thus leaving the Legislature and the King directly opposed in the interpretation of the constitution regarding the veto power.

On yesterday, the 19th instant, the King, still adhering to his interpretation of the constitution, returned to the Legistature two more bills, with his objections thereto, which the Legislature decided to treat as only an attempt to veto, claiming that all bills returned unsigned without the consent of the cabinet ministers would become laws by virtue of not being legitimately returned to the Legislature within ten days after presentation to his majesty for approval.

There was no discussion on the subject yesterday, and the matter was quietly disposed of when the Legislature proceeded to consider other business.

Judging from information received, I am of the opinion that it is the purpose of the adherents of the doctrine promulgated by the Legislature to solve the constitutional problem by the appointment of a fifth judge, filling a vacancy caused by the death of Judge Fornander.

Although there is considerable feeling in the community concerning the differences between the King and the Legislature, yet at this time the indications are that a peaceful settlement through the courts will be obtained.

Every precaution possible is taken, by quietly providing for any emergency; but it is now believed that the special session of the Legislature will adjourn *sine die* to-night, or to-morrow at the latest, and when the vacancy in the supreme court is filled doubtless the legality of the acts vetoed by the King will be constitutionally tested.

I inclose herewith extracts of legislative proceedings of the 19th instant, giving in full the messages of the King accompanying the returned bills and legislative action thereon.

I have, etc.,

GEO. W. MERRILL.

[Inclosure in No. 161.]

Extract from legislative proceedings December 19, 1887.—*More vetoed bills.*

The president reported the following messages from the King:

The Hon. S. G. WILDER,
President of the Legislative Assembly of the Kingdom:

SIR: The "act to render unlawful the granting of license for the vending of spirituous liquors at retail in any district of the Hawaiian kingdom, other than Honolulu, in the island of Oahu," I have returned without my signature, for the following reasons:

(1) This measure is not calculated to prohibit or restrict the sale of spirituous liquors throughout the kingdom; it will simply re-establish the illicit traffic in such liquors which existed before the issuing of country licenses, and impose on some sections of the country a restraint from which another is free.

(2) Whatever evils may result from allowing such sales, legislation should not make a distinction between one place and another in any general measure, such as sanctioning the sale of liquor, but if it is deemed that the country will be benefited thereby, such sales should be prohibited throughout the kingdom, so that all appearance of class legislation may be avoided.

(3) If the people of a district in this kingdom desire such legislation, provision should be made for them to signify that desire by a vote regularly cast as in other elections, and the will of the majority in such district should direct the policy of the Government as to the issuing or withholding a license.

In view of the foregoing we withhold our signature from this bill.

Done at our palace at Iolani Hale this — of December, A. D. 1887.

KALAKAUA REX.

The Hon. S. G. WILDER,
President of the Legislative Assembly of the Kingdom:

SIR: The objection I have to "An act to provide for the regulation of the internal police of the kingdom" is as follows:

First. It is not particularly necessary that the attorney-general shall have the care, supervision, and control of the entire internal police of the kingdom further than is provided under the present statutes of the kingdom.

Second. Neither is it politic that the appointment of the marshal should be through so many ramifications of offices and place it under approval, first, of the executive, and finally the judiciary, instead of its proper place, the executive. A more serious objection to the bill is that of the power of dismissal given to the attorney-general, but no authority of appointment; such authority, being distributed, places the attorney-general and the execution of his power in this respect in an anomalous position, and renders the office of command over the police nugatory.

Third. The enjoyment of emoluments or fees by the marshal or sheriffs, other than their salaries, should have been discontinued.

Fourth. No provision is provided for the responsibility of the police under the attorney-general as a reponsible head; neither are there codes or regulations for a more perfect system of administration and discipline, as intended by the policy of the Government, expressed in the address from the throne.

Fifth. A more careful consideration is necessary to carry out the full intent and policy of the Government, and it is advisable that the bill should lie over for the next regular session of the Legislature, so as to give time for further and more ample deliberation upon a law of so much importance.

I have therefore withheld my signature from this bill.

Done at our palace at Iolani Hale this — day of December, A. D. 1887.

KALAKAUA REX.

The president read a further communication from his majesty, in which he stated that the constitutional question of his right to an absolute veto had been submitted to the supreme court, but that the justices had been unable to agree; that he still adhered to the terms of his former message of the 2d instant, and that the acts in question were again returned to the house to take such further action thereon as might be deemed advisable.

Noble Baldwin asked the ministers if the veto message was countersigned by a minister, or if the action taken by the King thereon was by and with the advice of the ministers.

Minister Green answered that the ministers had advised the signing of all the bills passed; no minister's name is countersigned on the veto; the ministers knew nothing about this veto and were not consulted.

Noble Castle regretted that the supreme court has not given a decision on this question. The house, however, had declared its opinion. He moved the following:

Resolved, That the message of the King accompanying the bills entled respectively as below specified be laid upon the table; and that said bills, under the principle declared in the resolution adopted by this Legislature on Monday, 12th instant, do go upon their usual and ordinary course, becoming law at the expiration of ten days from the date of presentation to the King.

Specification.—An act to render unlawful the granting of licenses for the vending of spirituous liquors at retail in any district of the Hawaiian Kingdom other than Honolulu, in the island of Oahu; an act to provide for and regulate the internal police of the kingdom.

Representative C. Brown asked for a ruling of the chair if this mode of procedure is within the rules of the house, citing rule 70.

Noble Castle said that according to the resolution of Monday the message from the King is no veto.

The chair said that no rule of the house particularly applies to the position in which it is now placed. Rule 70 does not. It is in the power of the house to say what course shall be taken.

Noble Young moved that the resolution be adopted.

Representative Kamauoha moved indefinite postponement.

Noble Dole moved the previous question. Carried.

Indefinite postponement was put and lost.

The resolution was adopted.

ORDER OF THE DAY.

Noble Castle moved the following:

Resolved, That the order of the day assigned for to-day, the same being the consideration of his majesty's message relating to the bills entitled "An act to abolish the office of governor," and "An act to provide for the discharge of certain duties

heretofore performed by the governors of the different islands," be laid upon the table, said matter having been disposed of by resolution adopted on Monday, the 12th instant, and that said bills do take their usual course, becoming law at the expiration of ten days from the date of presentation to the King.

Representative Paehaole moved that the vetoed bills be taken from the table and considered. Lost, 14 to 22.

Noble Castle's motion was adopted.

ANOTHER VETO.

The president read the following message:

The Hon. S. G. WILDER,
President of the Legislative Assembly of the Kingdom:

SIR: My objection to an "act relating to the military forces of the kingdom" is as follows, viz:

First. The King being commander-in-chief of the army and navy under the constitution, he, with the advice and consent of his ministers, frames and creates the organization of the military force. What is required of the Legislature is to authorize the same. It can not be intended that the Legislature is to deprive the Executive of this special function.

Second. The present law, as passed by the assembly, is an anomaly in many respects. No provision is made for authorizing courts-martial; for the declaration of martial law; and as many incongruities exist therein, it will render the law inoperative.

Third. Volunteer organizations are not an integral part of a government institution, and consequently can not be admitted as being within the purview of the constitution. Such organizations are better placed under the supervision of the governors than under the officers of the regular military organization.

Fourth. I do not deem it desirable or advisable that an organization of the military forces of the kingdom be done hastily and by direct organization of the Legislature without consultation or deliberation with the Executive, under whose charge the department belongs. It is advisable that this bill lie over for the next regular session of the Legislature. A measure of such importance should have careful consideration.

We therefore withhold our signature from this bill.

Done at our palace at Iolani Hale this 19th day of December, A. D. 1887.

KALAKAUA REX.

Noble Castle asked if the royal assent to this bill had been refused by and with the advice of the cabinet.

Minister Green said it was not. The cabinet had not been consulted in the matter.

Noble Castle then moved a resolution of precisely the same terms as the resolution on the veto messages in the forenoon.

The ayes and noes were called on the resolution, when there appeared:

Ayes—Green, Thurston, Ashford, Robinson, Young, Jaeger, Castle, Smith, Waterhouse, Foster, Wight, Notley, Wall, Townsend, Hitchcock, Baldwin, Bailey, G. N. Wilcox, Bertelmann, Dole, Hustace, Dowsett jr., Deacon, Kinney, Paris, Horner, Kawainui, A. S. Wilcox, Rice, Gay—30.

Noes—Luhiau, Naone, Kauhi, C. Brown, F. Brown, Maguire, Kamauoha, Daniels, Helekunihi, Paehaole—10.

The resolution was adopted.

The house adjourned to 10 o'clock Tuesday morning.

No. 613.

Mr. Merrill to Mr. Bayard.

No. 168.] LEGATION OF THE UNITED STATES,
Honolulu, February 10, 1888. (Received February 27.)

SIR: I have the honor to inclose a copy of the decision of the supreme court of Hawaii, rendered on the 6th instant, sustaining the personal independent right of veto, as claimed under the constitution by his majesty the King.

Four of the judges concur in the opinion, and the late appointee, Judge S. B. Dole, dissents.

The decision was received by the community without much comment, and has not created any unusual agitation.

Contrary to the predictions of some, who desired a different decision, the political affairs of the country are quiet, and no valid reason now appears why the present condition should not continue.

I am informed that the Legislature will not assemble until May next, when it will convene in regular session.

I have, etc.

GEO. W. MERRILL.

[Inclosure 1 in No. 168.]

Supreme court decision.

The supreme court sat *in banco* yesterday, and rendered judgment in the cause of T. W. Everett *vs.* Hoapili Baker. The decision, in which Associate Justices McCully, Preston, and Bickerton concurred, was read by Chief-Justice Judd. Associate Justice Dole read a dissenting opinion.

The preamble of the court's finding sets forth that Thomas W. Everett, of Wailuku, in the Island of Maui, respectfully represents unto this honorable court as follows, to wit:

(1) That he is sheriff of the said Island of Maui, duly appointed and commissioned, and in the discharge of the duties of said office.

(2) That the above-named defendant, Robert Hoapili Baker, was, prior to and during the 31st day of December, 1887, the duly commissioned governor of the said island of Maui, and in the discharge of the duties and in the possession of all books and records theretofore and then preserved in and as a part of and belonging to the said office of governor.

(3) That by virtue of a statute passed by the Hawaiian Legislature at its extraordinary session in 1887, entitled, "An act to provide for the discharge of certain duties heretofore performed by the governors of the different islands," it became the duty of the defendant to transfer and deliver to the sheriff of the said island of Maui certain records of the office of said governor of Maui, to wit, the records relating to the administration of oaths and the taking of depositions; the selection and construction of pounds and the appointment and removal of pound-masters; the certification of impressions of brands and marks; the control, preservation, and disposition of wrecks and wreckages; the shipping and discharge of seamen, and the testing certification of weights and measures.

(4) That demand has been made upon said defendant at divers times since the 31st day of December, 1887, to so transfer and deliver to this plaintiff the records aforementioned, but that the said defendant utterly neglected and refused, and doth still, although said records are now detained by him, the said defendant, neglect and refuse to transfer and deliver the same, or any thereof, to this plaintiff.

(5) That plaintiff is advised and believes that the possession of said records by this plaintiff is necessary to the due administration of the duties of his said office, and if plaintiff should be confined to the ordinary legal forms for the purpose of obtaining the custody of such said records, the slowness of such ordinary legal forms would be likely to produce such delay that the public good and the administration of the law would suffer therefrom.

Wherefore the plaintiff prays that there issue out of and under the seal of this honorable court an alternative writ of mandamus, to be directed to the said defendant, Robert Hoapili Baker, commanding him, within a certain time to be therein named, to transfer and deliver to this plaintiff the records aforesaid, or that in default of such delivery he shall show cause to this honorable court, at a time to be in said writ specified, why a peremptory writ of mandate should not issue against him, peremptorily commanding him to transfer and deliver the said records to this plaintiff; and that in default of defendant's showing such cause such peremptory writ, as aforesaid, may issue to and against said defendant.

The answer to the foregoing avers that now comes Robert Hoapili Baker, the above-named defendant, and makes this his answer and return to the writ in the above-entitled cause, and says:

(1) That he admits that Thomas W. Everett is sheriff of the island of Maui, duly appointed and commissioned, and in the discharge of the duties of said office.

(2) That he admits that he was, prior to the 31st of December, 1887, and says he now is, the duly-commissioned governor of the island of Maui, and in possession of the records of said office.

(3) That he denies that there is in existence any law of this Kingdom which requires him to transfer and deliver to the sheriff of the said island of Maui certain records of the office of said governor of Maui, to wit, the records relating to the administration of oaths and the taking of depositions, the selection and construction of pounds and the appointment and removal of pound-masters, the certification of impressions of brands and marks, the control, preservation, and disposition of wrecks and wreckages, the shipping and discharge of seamen, and the testing and certification of weights and measures.

(4) That he admits that the demand has been made since the 31st day of December, 1887, to so transfer and deliver to the plaintiff the records aforementioned.

And this defendant further answering, says that he was commissioned as governor of said island of Maui on the 4th day of October, A. D. 1886, and can only be removed from said office by impeachment.

Wherefore he prays that said petition be dismissed, with costs.

DECISION.

The certificate attached to the act under consideration makes it known that the act was returned by the King unsigned, with a message setting forth certain reasons why he refused to sign the same, and that such message was not countersigned by a minister, and that His Majesty's act in so returning the same was done without the advice and consent of the cabinet, and that the legislature considered that this was not a refusal, or veto as popularly styled, within the meaning of article 48 of the constitution.

If there had been a constitutional veto of the act or bill, it is clear that by the provisions of article 48 it was left for the legislature to reconsider and make the bill a law by a two-thirds vote of the elective members, and that failing this the bill remained vetoed.

The controlling question, then, is whether the refusal of the King to sign a bill which has been passed by a majority of the legislature requires for its validity to be done by the advice and consent of his cabinet, evinced by the counter-signature of a minister, or is the individual right of the King.

We are thus led to consider what is the meaning of article 48 of the constitution, and whether the power of the King in approving or disapproving of bills passed by the legislature is controlled by article 78, and to determine whether article 48 is an exception to the general words of article 78. The words in this article, which provide for the exceptions to which they shall not apply, are "unless otherwise expressed."

This means that any act which the constitution requires to be done by the King shall be done by him by and with the consent of the cabinet, unless the article defining the act to be done shall of itself show that the concurrence of the cabinet is not required. An illustration of this is found in article 70, where the King, his cabinet, and the legislature have the authority to require opinions of the justices of the supreme court. The context shows that as the cabinet have this authority, and the King also has it, the concurrence of the cabinet is not necessary to enable the King to procure such opinion.

So also in article 41, where the power is given to the King to appoint and commission his cabinet and to remove them upon a vote of want of confidence by the legislature. From the nature of the act of removal the cabinet could not withhold their consent to the King's act in removing them. It is here expressed otherwise than that this act requires the advice and consent of the cabinet.

In article 48, which prescribes the method by which a bill passed by the legislature may become law, it is required that such bill shall, as a condition-precedent, be presented to the King. His mind must then act upon it, for "if he approve of it he shall sign it and it shall thereby become a law." This act of approval implies that he has become acquainted with its contents, and that in the exercise of his judgment he deems it advisable that it become law. The nature of this act requires his reasoning faculties to be exerted as to the necessity and wisdom of the measure. In arriving at his conclusions he may and ought to ask and receive the advice of his cabinet, but at the final moment of decision he must settle for himself whether the measure shall become law or not, and if this decision can be prevented by the cabinet, then it is not his act, but their act.

Suppose the case of a bill passing the legislature which the cabinet thought should not receive the King's approval, but which the King was desirous of approving, could the cabinet veto such a bill? If so, in what way should their failure to concur be manifested? By omitting to countersign the King's signature? Countersigning by a minister is not required by article 48 of the constitution, which designates the steps to be taken whereby a bill shall become effectual as a law. A construction which would make the ministerial counter-signature of a law essential to its validity would render invalid every statute passed by the legislature of this Kingdom since the con-

stitution of 1864, up to the special session of 1887, including the whole penal code, and throw the nation into the direst confusion.

Article 48 also provides that a bill may become a law if the King shall withhold it from the legislature after the lapse of ten days from the time of its presentation to him. In this case the king does no overt act to the bill. He neither signs the bill nor returns it with his objections. Will it be contended that this constructive approval of the King requires the consent of the cabinet? If so, how shall it be expressed? By the signature of a minister when the King's name has not been affixed to the bill?

We think that the plain and obvious meaning of the whole context of article 48 is that the power of the King to approve or disapprove a bill is a personal, individual right, and this article standing alone would never have given rise to doubt. Since the 78th article contains the words, "unless otherwise expressed," therefore, any act of the King which does not, by force of the article which defines the act, require the consent of the cabinet, is excepted from the operation of the general rule laid down in article 78. By this reasoning we do not find article 78 to be repugnant to article 48. Force and effect is given to both articles, which is the proper method of construction. And in this view it is not necessary to discuss the question whether article 78, being later in the instrument, should control an earlier article.

What is the nature of the act of the King in approving or disapproving a bill? Is it an executive or legislative function? It is to be noticed that article 48, defining this function, is identical with the corresponding article from the Constitution of the United States, altered only so far as to conform to the nature of our legislature, which consists of one house.

Pomeroy, in section 174 of his Constitutional Law, says: "Although the Constitution, in its general language, vests the legislative power in a Congress which is declared to consist of a Senate and a House of Representatives, yet a reference to other portions of the organic law shows that this Congress does not in fact possess the sole legislative function. No law can be passed without the consent of the Executive, unless two-thirds of both houses shall finally concur therein. The assent of the President is as necessary to the enactment of any measure having the nature of a law as that of a majority of both branches of Congress. In this the President legislates. His affirmative or negative decision is a step in the process of creating and not of executing laws. By virtue of the various provisions of the Constitution, the Congress is in fact, though not formally and in terms, composed of three distinct bodies—President, Senate, and House of Representatives—and all must concur, with the single exception just noticed, that a two-thirds vote of both the other branches avails against the dissent of the Executive."

In Fowler *vs.* Pierce, 2 Cal., 165, it was held that in approving a statute the executive acts as a component part of the law-making power, and his power of approval ceases on the adjournment of the legislature.

We understand that Von Holst, a German writer, holds a different opinion. But whereas in the United States since the legislative power is vested by the Constitution in the "Congress of the United States," there may be differences of opinion as to the character of the President's act, the question admits of no doubt as regards the King of these islands, for article 44 reads: "The legislative power of the Kingdom is *vested in the King and the legislature*, which shall consist of the nobles and representatives sitting together."

The King's act in approving or disapproving bills is the exercise of a legislative function, for he is by the organic law a constituent of the law-making body. It can not be seriously contended that article 44, above quoted, should be coupled with article 78, and that without article 42, which gives the cabinet seats in the legislature, they would be vested with legislative power. That the King is a part of the law-making power is further evidenced by article 76 of the constitution, which declares that the enacting style in making and passing all acts and laws shall be: "Be it enacted by the King and the legislature of the Hawaiian Kingdom."

Article 41 of the constitution defines the cabinet, and prescribes that "they shall be His Majesty's special advisers in the executive affairs of the Kingdom." Reading this article with article 78 leads to the conclusion, which is not a forced one, that the "acts" of the King, which require the advice and consent of the cabinet, are confined to executive acts and do not include legislative functions. If article 41 had made the cabinet the special advisers of the King on all affairs of the Kingdom there would be more room for the contention that the "acts" referred to in article 78 included legislative as well as executive.

It may well be contended that as by the 41st article the cabinet are His Majesty's special advisers in the executive affairs of the Kingdom, and that no act of the King shall have any effect unless it be countersigned by a member of the cabinet, who by that signature makes himself responsible, the effect of article 78 is to require in addition the consent of the whole cabinet, and thus the responsibility is thrown upon the whole, and the inconveniences of a divided cabinet obviated. The counter-

signature of a minister to a legislative act of the King is not required, because a minister could not be subjected to impeachment for such an act.

Since the argument the Attorney-General has filed a brief in which he says: "It has not hitherto been considered, and I do not think it is necessary that the King's signature to laws be attested by any minister."

On the argument, the Attorney-General strenuously insisted upon such necessity, and quoted from Webster's Dictionary and other authorities as to the meaning of the word "act" in support of his contention.

It seems to us, it being thus conceded that the signature of the King to an act of the legislature is not an "act of the King," within the meaning of article 41, requiring countersigning by a minister, it follows that the message declining to sign must come under the same rule, and therefore the substantial part of the Attorney-General's position fails.

But it is urged that there is no analogy between the veto power of the President of the United States, which is individual and irresponsible, and that of the King of these islands, because the President's term of office is limited and he is subject to impeachment, and in these methods the will of the people may find expression against a vicious use of this power. This argument, as it seems to us, is good reasoning why the framers of the Constitution of the United States were willing to trust the President with this power; but it is no argument against the view that the articles in both the American and Hawaiian constitutions which define the veto power of the Chief Executive, being identical in language, do not in both cases intrust them with a power of veto which can be exercised according to individual judgment.

Great Britain is held up as the great exemplar. In that Kingdom, by its unwritten constitution, the sovereign has the veto power; but, as the historian Macaulay says, "It is hardly possible to conceive circumstances in which a sovereign so situated can refuse to assent to a bill which has been approved by both branches of the legislature. Such a refusal would necessarily imply one of two things; that the sovereign acted in opposition to the advice of the ministry, or that the ministry was at issue, on a question of vital importance, with a majority both of the Commons and of the Lords. On either supposition the country would be in a most critical state, in a state which, if long continued, must end in a revolution." (Macaulay's "History of England," Vol. IV, p. 137.)

But this concedes that the naked right of veto exists in the sovereign of Great Britain, though it would be dangerous to exercise it. Burke, in his letter to the sheriff of Bristol, says: "The King's negative to bills is one of the most indisputed of the royal prerogatives, and it extends to all cases whatsoever. I am far from certain that if several laws, which I know, had fallen under the stroke of that scepter, that the public would have had a very heavy loss. But it is not the propriety of the exercise which is in question. The exercise itself is wisely forborne. Its repose may be the preservation of its existence, and its existence may be the means of saving the constitution itself on an occasion worthy of bringing it forth."

The parallelism between Hawaii and Great Britain is not perfect, because the latter country has a government by parliament; the ministry must have seats in one house or the other, and must be taken from the party who are in the majority.

The Hawaiian constitution has features resembling that of Great Britain in some respects, and in other respects resembling that of the United States, and has many features differing from both; and where the parallelism fails the argument by analogy fails with it. We are therefore obliged to construe the Hawaiian constitution by its intrinsic features.

The arguments drawn from English history would have cogency if addressed to a body that were framing a constitution for Hawaii, but they are of little weight in ascertaining the true intent and meaning of the instrument now formed and in force as the fundamental law of the land. This court sits not as a legislature to make or amend the constitution, but to discharge the judicial duty cast upon it by the law of interpreting the constitution.

The preamble of the constitution, which reads—

"Whereas the constitution of this Kingdom heretofore in force contains many provisions subversive of civil rights and incompatible with enlightened constitutional government;

"And whereas it has become imperative in order to restore order and tranquillity, and the confidence necessary to a further maintenance of the present Government, that a new constitution should be at once promulgated:

"Now, therefore, I, Kalakaua, King of the Hawaiian Islands, in my capacity as sovereign of this Kingdom, and as the representative of the people hereunto by them duly authorized and empowered, do annul and abrogate the constitution promulgated by Kamehameha the Fifth, on the 20th day of August, A. D. 1864, and do proclaim and promulgate this constitution," is urged as a strong reason why we should interpret the constitution to mean that the veto is an act of the King which must have the consent of the cabinet.

It is evident from the whole scope of the constitution of 1887 that it was the intention of its framers to curtail the King's power in the Government. For example, article 31 of the constitution of 1864 read: "To the King belongs the executive power." This article in the constitution of 1887 reads: "To the King *and the cabinet* belongs the executive power." By article 49 of the old constitution the King's power of veto was *absolute* and final. By returning a bill to the legislature unsigned and unaccompanied by any objections it failed to become law and could not be brought forward thereafter during the same session. By article 48 of the present constitution this vetc is limited and can be evercome by a two-thirds vote of the legislature, thus accomplishing a substantial abridgment of the royal power.

It is urged by the Attorney-General that this limitation is ineffective, and at least thirty-two out of a house of forty-eight members must vote in favor of a vetoed bill to make it law, so that as some sixteen members may absent themselves from the house, practically a vetoed bill can only become a law by unanimous consent of the elective members. But the house has the power to compel the attendance of members, and the same difficulties would stand in the way of the passage of a bill if vetoed by the cabinet.

If the power of veto is vested in the cabinet the practical result would be that no measure which they should oppose and vote against could become a law unless two-thirds of the elective members favored it. This would give to ministers a power unknown in any other country, and completely obliterate the legislative power of the King.

The 48th article requires of the King that, if he disapprove of a bill, he send to the house his objections to it, which are to be entered upon the journal, presumably in order that they may be the subject of discussion when the bill is reconsidered.

Now, if these objections are the cabinet's objections and not the King's, it would be an idle ceremony for the cabinet to reiterate, in the form of a royal message, objections which they have already urged during the discussion in the legislature against the passage of the bill.

It is urged that as the 48th article allows only the elective members of the legislature to vote upon a bill that has been vetoed by the King, and thus the cabinet are excluded from this privilege, this was so framed in order that the cabinet should not back up a measure vetoed by themselves, through the King, by their own votes. Other reasons more satisfactory to us are that the cabinet were not allowed to vote on a vetoed bill in order that they might not place themselves in a position of open antagonism to the King, and that a measure which the King disapproved of should, in order to become law, have sufficient merits to secure the approval of two thirds of the house, who represent the people, not including the special advisers of the King.

It was said at the argument that a decision contrary to the views of the Government would lead to results most disastrous to the present and future welfare of this Kingdom.

We do not anticipate such results, but as judges sworn to discharge our duties conscientiously and fearlessly we are not moved by such considerations, if we can arrive at conclusions which commend themselves to our consciences and our judgment as we have in this case.

The judgment of the court is that the act entitled "An act to provide for the discharge of certain duties heretofore performed by the governors of the different islands" has not become a law, having been disapproved of by the King in the manner provided for by the constitution.

We deem the cause shown by the respondent is sufficient and the rule is discharged.

A. F. JUDD.
L. MCCULLY.
EDWARD PRESTON.
RICH. F. BICKERTON.

DISSENTING OPINION BY ASSOCIATE JUSTICE S. B. DOLE.

The legislative bill entitled "An act to provide for the discharge of certain duties heretofore performed by governors of the different islands" was presented to the King. Before the lapse of ten days he returned it to the legislature, unsigned, accompanied with a communication setting forth his objections to the bill. This communication was not countersigned by a member of the cabinet, and it is in evidence that such return of the bill with the statement of the King's objections thereto was without the advice or consent of the cabinet.

The issue raised by the pleadings in the case before the court is whether this bill became a law upon the lapse of ten days from the time it was presented to the King, according to the provisions of article 48 of the constitution.

Article 48 reads as follows:

"Every bill which shall have passed the legislature shall, before it become a law, be presented to the King. If he approve, he shall sign it and it shall thereby become

a law, but if not, he shall return it with his objections to the legislature, which shall enter the objections at large on their journal and proceed to reconsider it. If, after such reconsideration, it shall be approved by a two-thirds vote of all the elective members of the legislature, it shall become a law. In all such cases the vote shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of the legislature. If any bill shall not be returned by the King within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature by their adjournment prevent its return, in which case it shall not be a law."

The respondent claims that the bill in question, having been returned unsigned by His Majesty, with his objections, to the legislature, and there having been no reconsideration thereof by the legislature, it has failed to become law by virtue of article 48.

The complainant, on the other hand, contends that article 48 is qualified and controlled by the latter clause of article 41, which reads:

"No act of the King shall have any effect unless it be countersigned by a member of the cabinet, who by that signature makes himself responsible," and by article 78 which reads as follows:

"Wherever by this constitution any act is to be done or performed by the King or the sovereign, it shall, unless otherwise expressed, mean that such act shall be done or performed by the sovereign by and with the advice and consent of the cabinet," and therefore that the King's act in returning the bill in question to the legislature with his objections thereto, without the advice and consent of the cabinet, and without the signature of a member of the cabinet upon the statement of the King's objections to the bill, was invalid and not an objection to the bill requiring a reconsideration as contemplated by the constitution.

This position is met by the respondent with the argument that the act of returning a bill to the legislature by the King with his objections, popularly termed a veto, is a legislative act, and not an executive one, and that the above quotation from article 41 refers only to executive acts. In support of this view he refers to article 31, which says: "The person of the King is inviolable and sacred. His ministers are responsible. To the King and the cabinet belongs the executive power. All laws that have passed the legislature shall require His Majesty's signature in order to their validity, except as provided in article 48," and to article 41, the first part of which has the following: "The cabinet shall consist of the minister of foreign affairs, the minister of the interior, the minister of finance, and the attorney-general, and they shall be His Majesty's special advisers in the executive affairs of the Kingdom."

The respondent offers the further proposition that the expression of article 48 in reference to the application of the royal signature to legislative bills, and the refusal thereof, withdraws such acts from the rule laid down in article 78, that is, that the approval and veto of bills by the King are not required to be by the advice and consent of the cabinet, because it is "otherwise expressed" or provided in article 48.

The conflict of opinion as to the meaning of the constitution, brought to the attention of the court by this case, arises partly from the support given by articles 31 and 41 of the constitution above quoted in favor of the theory that the ministers are the advisers of the King *only* "in the executive affairs of the Kingdom," and therefore that they are not his advisers in legislative matters; and, it is argued by the respondent, that when a veto message is sent to the legislature, it being a legislative act, it is not covered by the provision of article 41, that "no act of the King shall have any effect unless it be countersigned by a member of the cabinet, who, by that signature, makes himself responsible." There is nothing in the context which tends directly to show that this provision is limited to executive acts, and this conclusion must be arrived at, if received at all, through the mental process of argument. If it is necessary to consider it in the light of the whole of article 41 and of article 31, it is equally necessary to consider it in the light of article 78, which comes after the others, and thereby has the greater force, which is sweeping in its terms, and which admits of no exception to its application, unless such exception is expressed in the statement of the act to be performed by the King.

Chief-Justice Story, in the one hundred and ninetieth section of his Commentaries on the Constitution of the United States, says: "A constitution of government founded by the people for themselves and their posterity, and for objects of the most momentous nature, for perpetual union, for the establishment of justice, for the general welfare, and for a perpetuation of the blessings of liberty necessarily requires that every interpretation of its powers should have a constant reference to these objects. No interpretation of the words in which those powers are granted can be a sound one which narrows down their ordinary import so as to defeat those objects. That would be to destroy the spirit and cramp the letter." This statement of one of the principles upon which the Constitution of the United States should be interpreted is applicable to our constitution, which, we learn from its preamble, was founded by the people of the Hawaiian Islands and proclaimed by the King, as their representative, for the

securing of civil rights and enlightened constitutional government, and for the restoration of order, tranquillity, and necessary public confidence. The constitution signifies a new departure, it abrogates the old constitution, which it declares subversive of civil rights and incompatible with enlightened constitutional government. Our constitution, then, must be interpreted with a constant reference to civil rights and enlightened constitutional government. Reading it carefully through and considering it as a whole, we find that it exhibits a definite and consistent purpose to attach responsibility to power in every case. I understand by the constitution that all powers not expressly given are reserved by the people, the source now of all political power, and that they intended that government should be conducted solely for the benefit of the people and not for the benefit of rulers. We find, upon an examination of its provisions, that the King may appoint an heir with the consent of the nobles, that he may proclaim war by consent of the legislature, that he may, with the advice of the privy council, convene the legislature to extraordinary sessions; that he may make treaties affecting the tariff, with the approval of the legislature; that he may coin money and regulate the currency by law, that is, through a legislative enactment; that he may remove members of the cabinet upon a vote of want of confidence by the legislature or upon their conviction of felony. In all these cases he acts without prerogative, and by virtue of the advice, consent, or conclusions of responsible officers or departments of government. Then, in regard to the rest of the constitutional acts of the sovereign, some fifteen in number, we have the sweeping provisions of article 78, which it seems to me may be reasonably said to apply to all constitutional acts of the sovereign, whether executive or legislative, unless an exception is made in the definition of the act itself or of the method of performing it. The cases that I have referred to, in which the King's performance depends upon the action of responsible officers or departments of government, would seem to be the exception contemplated in article 78 in its proviso, "unless otherwise expressed."

This brings us to the question whether article 48 contains expressions which take the act of vetoing a legislative bill out of the rule laid down by article 78. And I will here refer again to Judge Story's rules of interpretation:

"Constitutions are not designed for metaphysical or logical subtleties, for niceties of expression, for critical propriety, for elaborate shades of meaning, or for the exercise of philosophical acuteness or juridical research. They are instruments of a practical nature, founded on the common business of human life, adapted to common wants, designed for common use, and fitted for common understandings. The people make them, the people adopt them, the people must be supposed to read them with the help of common sense, and can not be presumed to admit in them any recondite meaning." (Story's Com., sec. 210.)

Also to Cooley's Constitutional Limitations (5 ed., 72): "Narrow and technical reasoning is misplaced when it is brought to bear upon an instrument framed by the people themselves for themselves, and designed as a chart upon which every man, learned and unlearned, may be able to trace the leading principles of government."

The proviso of article 78 is: "Unless otherwise expressed." In the case of exceptions above referred to, it is provided that the act shall be done by the King by virtue of some other authority, as, for instance, it is provided in article 28 that "in any great emergency he (the King) may, with the advice of the privy council, convene the legislature in extraordinary session."

In article 48 the provision in regard to the act of veto is as follows: "If he approve he shall sign it and it shall thereby become a law, but if not he shall return it, with his objections, to the legislature." I fail to see any language here which excepts the veto act from the rule of article 78, or which appears to do so. Such exception must be unequivocally expressed in words. It is not sufficient that a skillful logician might base a respectable argument upon the above quoted words in favor of the theory of the respondent. If the words taken in their common, plain, everyday meaning do not express an exception on their face then none can be inferred or forced from them by subtle reasoning. There is no more difficulty in the proposition that the King approves or disapproves by and with the advice of the cabinet than in the other proposition that he signs or refuses to sign by and with the consent of the cabinet. We may go further than this and be strictly within the principles of interpretation, if the words are fairly susceptible of both interpretations, which I do not admit, that one must be adhered to which is in sympathy with the spirit and purpose of the constitution, the object of the constitution is the securing of civil rights and enlightened constitutional government. It seems to me that the grant of the power of veto to the King, independent of all advice or responsible authority, would be an obstacle to the securing of civil rights, a cause of division and conflict between the Crown and the cabinet, and a menace to public tranquility, and therefore inconsistent with the spirit and objects of the constitution, and unlikely to have been intended by its framers. Is the power of veto as a royal prerogative, and which can only be overridden by a two-thirds vote of all the elective members of the legislature, consistent with enlightened constitutional government? This is a matter of

opinion, but the slaves of the two greatest constitutional governments on earth, those of England and the United States of America, give an unqualified negative to this question. The development of the principle of government by the House of Commons has rendered obsolete the veto power of the English sovereign. (Cooley's Constitutional Limitations, 15, note 1.)

In America the President, holding office for a brief term and liable to impeachment, may, at his own discretion, veto a bill from Congress, but it may be passed over his veto by two-thirds of a quorum of each house of Congress.

The contention of the respondent, if correct, makes the veto act a royal prerogative; but the constitution, in article 30, has defined the royal prerogative as follows: "It is the King's prerogative to receive and acknowledge public ministers; to inform the legislature by royal message from time to time of the state of the Kingdom, and to recommend to its consideration such measures as he shall judge necessary and expedient." This, being an affirmative grant of prerogatives to the King, implies an exclusion of all others, and is especially decisive against the admission by means of the interpretation of doubtful expressions of another prerogative of serious consequence and not in sympathy with the general tenor of the constitution. The word prerogative, as used in reference to the powers of a sovereign, has a definite meaning, gained through the great conflict between the Crown and Parliaments of England. It may be said to have no other meaning than given by Webster's Dictionary in the following definitions: "An exclusive or peculiar privilege; prior and indefeasible right; fundamental and essential possession; used generally of an official and hereditary right, which may be asserted without question, and for the exercise of which there is no responsibility or accountability as to the fact and the manner of its exercise." If the respondent is right in his theory of the case the sovereign is entitled to a prerogative in addition to those enumerated in article 30, and of great importance and far-reaching consequences. I am unable to arrive at this interpretation. The question whether the act of veto is executive or legislative in its nature might be of importance in this case if the seventy-eighth article did not exist, and the forty-first and thirty-first articles remained unaffected by other explanatory words; but there can be no question that the seventy-eighth article makes the cabinet the advisers of the Crown, with a controlling authority in all matters of state, legislative as well as executive, except as to those matters which the constitution otherwise provides for. If the forty-eighth article is not controlled by the seventy-eighth article it can only be because its own language distinctly makes it an exception, which, as I have more fully stated above, it does not do.

It may not be necessary that the veto message should be countersigned by a member of the cabinet, but it is necessary that it should be by and with the advice and consent of the cabinet, however such consent may be evidenced.

It seems to me therefore that the law in question is valid, and that under its provisions the respondent is bound to deliver to the complainant the records referred to in the complaint.

HONOLULU, *February* 6, 1888. SANFORD B. DOLE.

The attorney-general, C. W. Ashford, for the petitioner; Messrs. Hatch & Rosa for the respondent.

Mr. Merrill to Mr. Bayard.

No. 169.] LEGATION OF THE UNITED STATES,
Honolulu, February 13, 1888. (Received February 29.)

SIR: I have the honor to inform you that during an informal interview with His Majesty's minister of foreign affairs I ascertained that, since the arrival of the mail on the 8th instant, the British commissioner resident here has transmitted to His Hawaiian Majesty's minister of foreign affairs a communication in the nature of a protest against the exclusive right to Pearl River Harbor granted by article 2 of the supplementary convention extending the commercial reciprocity treaty between Hawaii and the United States.

I am also informed that the principal objections are based on article 2 of the treaty between Hawaii and Great Britain, ratified on May 6,

1852, the full text of which will be found by reference to page 31 of the pamphlet containing the "treaties and conventions concluded between the Hawaiian Kingdom and other powers since 1825," accompanying my dispatch No. 131, of July 15, 1887, and that the particular paragraph relied upon is the following:

In like manner the ships of war of each contracting party, respectively, shall have liberty to enter into all harbors, rivers, and places within the territories of the other, to which the ships of war of other nations are or may be permitted to come, to anchor there and to remain and refit, subject always to the laws and regulations of the two countries, respectively.

The minister of foreign affairs has not yet made any reply to the communication of the British commissioner, but will do so in a few days, and I hope to be able to transmit copies of the correspondence by the next mail.

I have, etc.,

GEO. W. MERRILL.

No. 615.

Mr. Merrill to Mr. Bayard.

No. 173] LEGATION OF THE UNITED STATES,
Honolulu, February 24, 1888. (Received March 24.)

SIR: I have the honor to inclose copies of the correspondence between the British commissioner resident here and His Majesty's minister of foreign affairs relative to the harbor of Pearl River, and referred to in my dispatch No. 169, of the 13th instant.

I have, etc.,

GEO. W. MERRILL.

[Inclosure 1 in No. 173.]

Mr. Wodehouse to Mr. Austin.

HER BRITANNIC MAJESTY'S CONSULATE-GENERAL,
Honolulu, February 9, 1888.

SIR: With reference to my previous correspondence with your excellency's department on the subject of the cession of "Pearl River Harbor" to the United States Government, I am now instructed to inform the Government of His Hawaiian Majesty that Her Majesty's Government have received from Her Majesty's minister at Washington a copy of a proclamation by the President of the United States announcing the ratification of the supplementary convention concluded with the Hawaiian Islands on the 6th of December, 1884.

By Article II of the convention, "the King of these islands grants to the Government of the United States the exclusive right to enter the harbor of "Pearl River," in the island of Oahu, and to establish and maintain there a coaling and repair station for the use of vessels of the United States, and to that end the United States may improve the entrance to said harbor and do all other things needful to the purpose aforesaid."

Under instructions from Her Majesty's Government, I have already pointed out to the Government of His Hawaiian Majesty that the acquisition by a foreign power of a harbor or preferential concession in the Hawaiian Islands would infallibly lead to the loss of the independence of the islands, but this consideration has not prevented His Hawaiian Majesty's Government from proceeding to the ratification of the supplementary convention with the United States; and although Her Majesty's Government are informed that by an exchange of notes between the Hawaiian minister at Washington and Mr. Bayard, it is declared that the article in question (No. II) does not subtract from Hawaiian jurisdiction; that it gives no right of property in the

harbor or cession of territory; that no exclusive right is conferred commercially, and that it terminates with the original treaty of 1875 whenever notice of such a termination is given; in fact, that it does not confer any exclusive right to "Pearl River Harbor" further than the right of the United States under it to establish a coaling station: yet in view of the actual text of the convention, and of the fact of the non-publication of these notes as forming part of the treaty, I am desired to remind His Majesty's Government of the terms of the treaty between Great Britain and these islands of the 10th of July, 1851.

The second article of that treaty stipulates that the subjects of each of the two "contracting parties, respectively, shall have liberty freely and securely to come with their ships and cargoes to all places, ports, and rivers in the territories of the other where trade with other nations is permitted," and it is stated that "in like manner the ships of war of such contracting parties, respectively, shall have liberty to enter into all harbors, rivers, and places within the territories of the other to which the ships of war of other nations are or may be permitted to come to anchor there and to remain and refit."

The growing importance of the Hawaiian Islands as a coaling and provision station for ships navigating the Pacific make it highly desirable that the harbors of the group should at all times be open equally to the ships of all nations, and as Her Majesty's Government can not consent to forego the rights and privileges which were expressly conceded to them by the above-mentioned treaty of 1851, they must still look to the Government of the Hawaiian Islands to maintain unimpaired the rights accorded to Great Britain by that treaty.

I have, etc.,

JAMES H. WODEHOUSE.

[Inclosure 2 in No. 173.]

Mr. Austin to Mr. Wodehouse.

DEPARTMENT OF FOREIGN AFFAIRS,
Honolulu, February 16, 1888.

SIR: I have the honor to acknowledge the receipt of your dispatch dated February 9, 1888, wherein you refer to your previous correspondence with this department on the subject of the "cession of Pearl River Harbor to the United States Government," and state that you are now instructed to inform the Government of His Hawaiian Majesty that Her Britannic Majesty's Government have received from Her Majesty's minister at Washington a copy of a proclamation by the President of the United States announcing the ratification of the supplementary convention concluded with the Hawaiian Islands on the 6th December, 1884. You also quote Article II of the said convention, and add that, under instructions from Her Majesty's Government, you have already pointed out to the Government of His Hawaiian Majesty that the acquisition by a foreign power of a harbor, or a preferential concession, in the Hawaiian Islands, would infallibly lead to the loss of the independence of the islands, and allude to the notes interchanged between the Hawaiian minister at Washington and Mr. Bayard, declaring that the article in question does not subtract from Hawaiian jurisdiction, and gives no right of property in the harbor, or cession of territory; that no exclusive right is conferred commercially, and that it terminates with the original treaty of 1875 whenever notice of such termination is given, and state that, in view of the actual text of the convention and of the non-publication of these notes as forming part of the treaty, you are desired to remind His Majesty's Government of the terms of the treaty between Great Britain and these islands, of the 10th day of July, 1851, quoting a portion of the second article of that treaty, and stating that Her Majesty's Government can not consent to forego the rights and privileges which were expressly conceded to them by the said treaty of 1851, and must still look to the Government of the Hawaiian Islands to maintain unimpaired the rights accorded to Great Britain by that treaty.

In reply, I beg to say that the term "cession of Pearl River Harbor" used in your dispatch does not occur in the convention under consideration, and does not, in the opinion of His Majesty's ministers, accurately describe the effect of that convention; for no cession of territory has been made, and in reality there is no such thing as Pearl River Harbor in the sense of its being a place available to ships of war or to any deep-water vessels.

The only thing which has been granted to the Government of the United States is the right to make a harbor at its own expense at a place called Pearl River Harbor, and, having so made it, the exclusive privilege of using it during the continuance of the treaty.

It can hardly be said that the treaty of 1851, referred to in your dispatch, whereby the right is granted to Her Majesty's ships of war to "enter all harbors, rivers, and places," would extend to the right to use harbors created by a third party at its own expense, under an agreement with His Majesty's Government, whereby such third party has paid a valuable consideration for the privilege of so creating such harbor. His Majesty's Government is of opinion that the convention with the United States Government does not involve any cession of territory to the United States or any release of sovereignty or jurisdiction by this Government, and that therefore the said convention does not in any manner affect the independence of this Kingdom; and, furthermore, that the privileges granted by that instrument to the United States Government in return for the reciprocal privileges granted by it to this Kingdom are compensatory and expire with the termination of the treaty, and that this construction of the convention is also that adopted by the United States Government.

In regard to the non-publication of the notes exchanged between the Hawaiian minister at Washington and Mr. Bayard, I beg to point out to you that they were published with the amended treaty in the proclamation of ratification by His Majesty.

His Majesty's Government regards the question of preferential concessions in reciprocal treaties as one which has been thoroughly settled in favor of the right to grant such concessions in return for grants of similar value; indeed Article III of the treaty of 1851, to which treaty you make reference, distinctly recognizes that right.

In the convention under consideration the renewal for a definite period of privileges which have been of such great value to this country is certainly ample compensation for the very slight privilege of allowing the United States Government to create and enter a harbor and establish a coaling station at Pearl River Harbor (where, in reality, no practical harbor exists), during, and only during, the existence of the treaty.

If the Government of the United States should see fit to expend the large amount of money which would be required to be expended before it would be possible that any war ship could enter Pearl River, the compensation by the United States Government for the privileges granted by His Majesty's Government would be greatly increased, and should the United States Government desire to secure the use of any of the territory or lands adjoining the waters of Pearl River, it would be obliged to acquire them by lease or purchase from the private individuals who are their sole proprietors.

The growing importance of the Hawaiian Islands as a coaling station and provision depot for ships navigating the Pacific, as mentioned in your dispatch, is largely the result of the beneficial influence of the treaty of reciprocity between the Governments of the United States and Hawaiian Kingdom, through the compensatory admission into the United States free of duties of certain of our products.

I venture to express the hope that Her Majesty's Government, in consideration of the foregoing statement, will appreciate that it is not the wish His Majesty's Government that His Majesty's Government shall consent to forego any of the rights and privileges accorded to it by the treaty of 1851, and that it is the intention of His Majesty's Government to maintain unimpaired the rights accorded to Great Britain by that treaty.

I have the honor, etc.,

JONA. AUSTIN.

[Inclosure 3 in No. 173.]

Mr. Wodehouse to Mr. Austin.

HER BRITISH MAJESTY'S CONSULATE-GENERAL,
Honolulu, February 21, 1888.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 16th instant, in reply to mine of the 9th, and shall transmit a copy of it to Her Majesty's Government, merely pointing out to your excellency that the only notes which were published by His Majesty's Government, with the "amended treaty," were two explanatory notes of Mr. Bayard to Mr. Carter, of the 22d and 23d of September, respectively.

I have, etc.,

JAMES H. WODEHOUSE.

[Inclosure 4 in No. 173.]

Mr. Austin to Mr. Wodehouse.

DEPARTMENT OF FOREIGN AFFAIRS,
Honolulu, February 23, 1888.

SIR: I have the honor to acknowledge the receipt of your letter of the 21st instant, in which you point out to me that the only notes which were published by His Majesty's Government with the amended treaty were the explanatory notes of Mr. Bayard to Mr. Carter of the 22d and 23d of September, respectively.

These are the notes which I wished to bring to your notice as containing the avowed views of the Secretary of State of the United States as to the interpretation to be put, in his view, upon the words and phrases of the supplementary convention, and are those to which I referred as having been published with the amended treaty in the proclamation of ratification by His Majesty the King.

Both these notes, and that one from Mr. Carter to Mr. Bayard, which was the occasion of Mr. Bayard's of September 23, were embodied in a statement presented by the late minister of foreign affairs to the legislature of the Kingdom, then in extraordinary session, on the 8th day of December, 1887, and were then published in the local papers with the other proceedings of the legislature.

I inclose, however, herewith a copy of Mr. Carter's note to Mr. Bayard of September 23, in case you may not have noticed its publication.

In view of the importance of this present correspondence I have deemed it advisable to furnish copies of the whole to His Majesty's envoy in Washington, and purpose to forward the same to the minister resident of the United States in this capital.

I have, etc.,

JONA. AUSTIN.

No. 616.

Mr. Merrill to Mr. Bayard.

No. 174.] LEGATION OF THE UNITED STATES,
Honolulu, February 24, 1888. (Received March 24.)

SIR: I have the honor to inclose two copies of regulations regarding the immigration of Chinese into the Hawaiian Kingdom officially published on the 21st instant.

There is a strong, increasing sentiment in this country, especially among the laboring class and merchants not directly interested in sugar plantations, that immigration shall be so regulated as to prevent any permanent increase of the Asiatic population of these islands.

To this end a society, known as the Anti-Asiatic Union, has been recently organized with the avowed purpose of procuring such legislation as will restrict the importation of Chinese and Japanese to the actual requirements of the planters, and to compel the return to their native country of those shipped contract-laborers not willing to renew their labor contracts on the expiration of the original contract. Also to procure the enactment of laws prohibiting the granting of any new licenses for any trade or commerce to Asiatics.

The indications now are that immigration will be one of the important questions for the consideration of the legislature in May next.

I have, etc.,

GEO. W. MERRILL.

[Inclosure in No. 174.]

Regulations.—By authority.

By virtue of the authority conferred upon me by an act entitled "An act to regulate Chinese immigration," approved December 20, 1887, I hereby publish, by and with the consent of the cabinet in council, the following regulations:

1. Each application by a Chinese resident in this Kingdom for a permit to enter

the Kingdom shall be accompanied by the applicant's receipt for taxes for the current year; his passenger ticket; his custom-house passport; duplicate copies of photographs showing full face and profile views of the applicant; and a fee of five dollars. And such applicant shall make it appear to the satisfaction of the minister of foreign affairs that he has resided within the Kingdom for two years, and that he is not a vagrant, criminal, professional beggar, user of opium, or one likely to become a charge upon the country.

2. Applications for permits to be issued to Chinese women, children, and families, under section 6 of the said act, must be accompanied by a certificate that the women are of good character, or are the wives of Chinese residents in the Kingdom, or that said children or families are such as permits are provided for in said section 6.

3. Section 9 of the said act is as follows: "All permits issued under the provisions of this act are personal and not transferable, and a transfer or attempted transfer shall be deemed to be a cancellation and a forfeiture; and the person making or attempting to make such transfer, and any person aiding or abetting him in so doing, shall be liable, on conviction, to a penalty of two hundred dollars, or to imprisonment for a term not exceeding six months at hard labor.

JONA. AUSTIN,
Minister of Foreign Affairs.

FOREIGN OFFICE, *Honolulu, February* 21, 1888.

No. 617.

Mr. Merrill to Mr. Bayard.

No. 179.] LEGATION OF THE UNITED STATES,
Honolulu, April 4, 1888. (Received April 24.)

SIR: I have the honor to inform you that the British ship *Caroline*, under command of Sir William Wiseman, left Honolulu on the 8th ultimo with sealed orders, and returned to this port yesterday.

During the cruise the three islands known as Fanning, Christmas, and Penrhyn, situated southerly from this place about 1,000, 1,200, and 1,800 miles, respectively, were formally taken possession of by Captain Wiseman on behalf of the Government of Great Britain.

The British commissioner here stated to me that the trade of these islands is regarded as insignificant, but that they are valuable as coaling stations, and possibly may be useful for telegraphic purposes in the event a cable is laid between Vancouver and New Zealand.

I have, etc.,

GEO. W. MERRILL.

No. 618.

Mr. Bayard to Mr. Merrill.

[Extract.]

No. 79.] DEPARTMENT OF STATE,
Washington, April 20, 1888.

SIR: I have received and attentively read your No. 173, of February 24, 1888, accompanied by copies of the correspondence between the British commissioner at Honolulu and the Hawaiian minister for foreign affairs in relation to the Pearl River Harbor concession.

On December 23, 1887, Her Majesty's minister at this capital called at the Department in reference to a memorandum which he had received from Lord Salisbury concerning the treaty between Great Britain and

France of 1844, by which they mutually agree to promote the neutrality of Hawaii, and suggesting that the United States unite in a similar declaration.

As pertinent to this question I forward copies of certain correspondence* lately exchanged between Sir Lionel West and myself concerning the same, and which I enumerate in the inclosures herewith.

I am, etc.,

T. F. BAYARD.

No. 619.

Mr. Bayard to Mr. Merrill.

No. 80.] DEPARTMENT OF STATE,
Washington, May 2, 1888.

SIR: I have received your dispatch No. 179, of the 4th ultimo, touching the recent cruise of Her Majesty's ship *Caroline*, and the action of her commander in taking possession on behalf of the British Government of certain islands in the Pacific.

I inclose, for your information, a copy of my instruction † to the chargé d'affaires *ad interim* of this Government at London, No. 862, of the 30th ultimo, concerning a copy of the correspondence exchanged between Her Majesty's minister here and this Department in 1879 in regard to Christmas Island.

You will report any further facts in relation to the reported occupation of the islands in question which may come to your knowledge.

I am, etc.,

T. F. BAYARD.

No. 620.

Mr. Merrill to Mr. Bayard.

No. 196.] LEGATION OF THE UNITED STATES,
Honolulu, July 24, 1888. (Received August 15.)

SIR: I have the honor to inclose copy of "An act to authorize the Hawaiian Government to contract for the construction of inter-island submarine electric telegraph cables," approved on the 2d instant, by the provisions of which the contract may provide for the payment by the Hawaiian Government of $25,000 to the constructor on the completion of the line connecting the group.

A contract has been entered into with the Mr. Bartholomew mentioned in the act, and he is now in the United States arranging for the construction of the cable.

I am informed by the minister of foreign affairs that the prospect for the success of the enterprise is very favorable.

I have, etc.,

GEO. W. MERRILL.

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* For inclosures see *ante*, documents Nos. 547, 556, 571, and 572, pages 774, 788 and 799.

† For inclosure see document No. 517, *ante*, page 712.

[Inclosure in No. 196.]

CABLE CONCESSION IN HAWAII.

AN ACT to authorize the Hawaiian Government to contract for the construction of inter-island submarine electric telegraph cables.

Be it enacted by the King and the legislature of the Hawaiian Kingdom: SEC. 1. The minister of the interior, with the unanimous concurrence of the cabinet, is hereby authorized to enter into a contract with J. Sherman Bartholomew, residing in Honolulu, H. I., his associates and assigns, or with any other persons or corporation, for the construction, laying, or maintaining of a submarine electric telegraph cable or cables to connect the islands of the Hawaiian group from Hawaii to Kauai, as follows, to wit: From Hawaii to Maui, from Maui to Oahu, with a landing on Molokai, and from Oahu to Kauai, together with lines of land telegraph to connect the same with all or any points on the Hawaiian Islands.

SEC. 2. Such contract may, by its terms, provide for the grant, concession, and confirmation by the Hawaiian Government to the said J. Sherman Bartholomew, his associates and assigns, or any other persons or corporation (hereinafter named and referred to as the constructors), of the sole and exclusive right and privilege to construct and lay submarine electric telegraph cables to connect the islands of the Hawaiian group, from Hawaii to Kauai, by the way of Maui, Molokai, and Oahu, together with lines of land telegraph, to connect the same for and during a period not to exceed ten (10) years from the first day of January, A. D. 1889; provided, however, that if the said lines of submarine electric telegraph cable shall not be laid ready for use on or before the first day of July, 1889, then the exclusive right and privilege, the granting of which is hereinbefore authorized, shall, at the option of the cabinet, at once, or at any time thereafter, lapse and become void upon three (3) months' notice to that effect being given to the constructors. And provided also, that if any of the lines of land telegraph to connect with the said submarine cables shall not be constructed and ready for operation on or before the first day of January, A. D. 1891, then or at any time thereafter upon three months' notice to the constructors, the minister of the interior, with the approval of the cabinet, may declare the exclusive right and privilege granted for the construction and maintaining of any such land line to be void and forfeited, and such exclusive right and privilege shall thereupon be void. And provided also, that the rights and privileges granted by virtue of this act shall not operate to prevent or preclude the Hawaiian Government from consenting to the landing, laying, or maintaining upon the Hawaiian Islands, or any of said islands, or in any Hawaiian waters, of any submarine telegraph or other electric cable or cables which shall serve to connect the said islands, or any of them, with any foreign country, or to interfere with the vested rights of any existing Hawaiian telephone or telegraph corporation.

SEC. 3. Such contract may further provide for the payment by the Hawaiian Government to the said constructors of the sum of twenty-five thousand dollars ($25,000) in the manner following, that is to say: Upon the completion of the said line in good working condition between Oahu and Maui, the sum of eight thousand dollars ($8,000); upon the completion of the said line in good working condition between Oahu and Hawaii, eight thousand dollars ($8,000), and upon the completion of the said line in good working condition between Oahu and Kauai, nine thousand dollars ($9,000).

SEC. 4. The granting of any of the rights or privileges and the payment of any of the money authorized by this act shall be conditioned upon the following additional covenants, that is to say: All messages other than Hawaiian Government messages or press messages shall be received and transmitted over any or all of said lines at the rate of not more than ten cents for each word, and all messages to or from the Hawaiian Government or any officer thereof in his official capacity and all press messages shall be received and transmitted over said lines for one-half of the rates charged for messages other than Hawaiian Government messages or press messages.

SEC. 5. Upon proof satisfactory to the minister of the interior that the respective sections of said line, as set forth in section 3 of this act, have been completed and are in good working condition for the transmission of messages, the said minister is hereby authorized and directed to pay to the said constructors the respective sums of money as provided in said section 3.

SEC. 6. This act shall take effect from and after the date of its approval.

Approved this second day of July, 1888.

KALAKAUA REX.

By the King:

L. A. THURSTON,
Minister of the Interior.

No. 621.

Mr. Merrill to Mr. Bayard.

No. 197.] LEGATION OF THE UNITED STATES,
Honolulu, July 24, 1888. (Received August 15.)

SIR: I have the honor to inclose copy of an act passed by the Hawaiian Legislature and approved on the 4th instant, limiting the time within which "permits for Chinese to enter the Kingdom may be used."

I have, etc.,

GEO. W. MERRILL.

[Inclosure in No. 197.]

AN ACT to limit the time within which permits for Chinese to enter the Kingdom may be used.

Be it enacted by the King and the Legislature of the Hawaiian Kingdom, SEC. 1. That no permit for any Chinese to enter the Kingdom issued prior to March 1st, 1888, shall be held to extend permission to such Chinese to enter the Kingdom after the first day of July, A. D. 1889.

SEC. 2. That all permits hereafter issued for Chinese to enter the Kingdom shall state the length of time, not to exceed one year from the date of issue, during which such permits may be used, and no such permit shall be held to extend permission to such Chinese to enter the Kingdom after the expiration of the time so stated, provided that the minister of foreign affairs, in his discretion, by and with the consent of the cabinet, may in exceptional cases extend the time herein stipulated.

SEC. 3. This act shall take effect from and after the date of its approval.

Approved this fourth day of July, A. D. 1888.

KALAKAUA REX.

By the King:

L. A. THURSTON,
Minister of the Interior.

No. 622.

Mr. Merrill to Mr. Bayard.

No. 201.] LEGATION OF THE UNITED STATES,
Honolulu, August 25, 1888. (Received September 12.)

SIR: I have the honor to inclose two copies of the "report of special committee on the Chinese question," submitted to the Hawaiian Legislature on the 7th instant, also two copies of a proposed amendment to the constitution recommended by the committee granting enlarged legislative powers regarding the Chinese.

Doubtless the proposed amendment will receive the support of a majority of the members of the present Legislature, but the principal contest will occur at the election two years hence, when the proposed amendment must be agreed to by two-thirds of all the members of Legislature then elected before it shall become part of the constitution.

The bill referred to on page 6 of the report of the committee, requiring laborers to procure a license, was referred to and has been considered by a newly-appointed special committee, and the committee this day returned the bill, accompanied by an adverse report, but recommend the adoption of the proposed amendment to the constitution and strin-

gent restrictive measures against the further influx of Chinese pending the adoption of the amendment.

Restricting the immigration of Chinese to this Kingdom, and the proper legislation touching those resident here, while conserving the interests of the planters and the white laboring classes, are vexed questions for the Legislature to determine.

The Chinese residents of the Kingdom will use all influence possible to prevent any legislation in the premises.

I have, etc.,

GEO. W. MERRILL.

[Inclosure 1 in No. 201.]

REPORT OF SPECIAL COMMITTEE ON THE CHINESE QUESTION.

The Hon. W. R. CASTLE,
President of the legislative assembly, A. D. 1888:

SIR: The undersigned, a special committee to whom was referred several matters relating to Chinese and Chinese and Asiatic immigration, beg leave to submit their report.

Three petitions and one constitutional amendment were referred to them, to wit:

First. Petition number 12 merely commending the course of the legislature in attempting to control Chinese immigration, and which, therefore, we here recommend be received and laid on the table.

Second. Petition number 93 from certain prominent Chinese merchants, praying that the law requiring photographs of persons seeking return permits may be repealed and that the fee for return permits be reduced to two dollars.

Third. Petition number 55 from a large number of citizens and residents, relative to Asiatic immigration and containing fourteen specific prayers relating thereto and to Asiatic residents in this Kingdom; and

Fourth. A constitutional amendment numbered bill 57, relating to Chinese.

In regard to petition number 93 from prominent Chinese merchants, your committee recommend that the same be laid on the table. This petition prays that the regulation be abolished requiring that Chinese departing the Kingdom and desiring return permits shall be photographed as a means of identification. The frauds perpetrated upon the Government in regard to Chinese return permits when it retained no means of identifying those who received them showed that Chinese could not be allowed the same freedom in this respect as other citizens and residents without abusing it, so that the Government was compelled either to adopt some means of identification in issuing return permits or to become the sport of those who received them. The Chinese have compelled this regulation in regard to photographs by their own conduct. By Chinese we do not mean all Chinese, but Chinese as a class. If there was any practical way of relaxing this regulation in individual cases where it was clearly unnecessary, the committee would recommend it, but, in their opinion, there is no way to do this without seriously impairing the law. While your committee sincerely believe that the Chinese merchants in this Kingdom as a class have many admirable qualities, yet your committee are compelled to say that in too many cases many of them render but scant assistance or information to the Government in its necessary efforts to control the mass of their countrymen residing here.

The same wholesale evasions of law in regard to passports exist, it is believed, in still greater degree in the matter of taxation and the vagrancy law, and the Government receives so little assistance from the abiding Chinese in these respects, that it is time the Government protected itself, and while the Government would undoubtedly fain give Chinese all the immunities enjoyed by other citizens it can not safely do so until they themselves learn better to use them. In justice to the Chinese, however the committee wish to say that undoubtedly the main reason that Chinese as a class evade the revenue taxation and kindred laws more than other races, is that there is far greater opportunity and therefore more temptation for them to do so, owing to the fact that the mass of them can not be identified or individualized.

This petition also prays that the $5 fee for return permits be reduced to $2. The committee believe that the extra expense to the Government necessitated by this class of passports will about offset the extra fee charged therefor; therefore think it unwise to reduce the same.

Petition No. 55 with fourteen specific prayers relating to Asiatics.

Instead of entering into a detailed recital and consideration of each prayer of this petition, your committee consider that the same results can be obtained by giving in brief the findings of facts and conclusions the committee has come to after having very carefully canvassed the whole subject of Asiatic immigration, and having taken evidence and consulted with many persons of different views on this subject.

Your committee find that the classification and identification of Japanese with Chinese is not justified by the facts; that the habits, traits of character, and tendencies of the two races are radically different and therefore recommend that the consideration of Japanese in the issue now before us be eliminated.

Undoubtedly some legislation in regard to Japanese immigration may from time to time be required, but it will be of a class entirely different from that required in regard to Chinese. Japanese immigration under proper restrictions should be encouraged as the best partial substitute for Chinese labor in this Kingdom, bringing as it does a class who are willing to adopt western civilization and who can be incorporated into our industrial system without seriously disjointing it.

In regard to the Chinese your committee find the following facts: Chinese labor in company with other labor is needed for field work on rice and sugar plantations in this Kingdom, it not being safe to rely exclusively on Japanese labor, the same being liable to recall by the Japanese Government, and Portuguese with large families needing wages that can only be permanently assured to them in the higher class of labor on plantations, and in the minor or middle industries of the Kingdom.

The committee, on the other hand, find that the competition of other races with Chinese is impossible, and that whenever other races are forced into such competition the result is not competition, but substitution of the Chinese for their competitors. That the Chinese are absorbing the different minor industries, mechanical, agricultural, and commercial in this Kingdom, and your committee see nothing to prevent them ultimately reducing the Kingdom practically to a Chinese colony, with scattering people of other nationalities here and there among them, and this even though no more Chinese are introduced for the present, because outside of the sugar and rice industries very few comparatively find employment, but what there is of such employment serves to retain in the country the higher class of artisans and middlemen upon whom the Government must rely to preserve constitutional representative government in average purity, and there are enough Chinese now in the country to swallow up such employments unless checked by law.

How to remedy this evil is a most serious question, and one that has been very fully discussed by the committee.

After mature deliberation the committee believe the Government should adopt the following policy in regard to Chinese:

First. That no Chinese shall hereafter be allowed to immigrate to this Kingdom except such as are needed to supply labor for the rice and sugar industries, and all who are allowed to enter for that purpose shall be prohibited by law from engaging in any other occupation whatsoever, and shall stay for a term of years only, to return home thereafter unless an extension of time is granted upon like conditions.

Second. As to Chinese already in the Kingdom, that Government shall by law prevent those now employed as day laborers from engaging in any other occupation. And, as to those who are already engaged in other occupations, that the power be given to the legislature of abridging from time to time their rights to continue in the same, more particularly the trades, whenever opportunity offers of so doing without undue injustice or infringement of vested rights, and the exigencies and needs of people of other nationalities demand it.

To carry out such a policy the constitution needs to be amended, and the committee therefore recommend that the proposed constitutional amendment, numbered bill number 57, and referred to this committee with certain amendments, do pass and be submitted to the elections in 1890. A copy of such constitutional amendment as modified by the committee is hereto attached and made a part hereof. The house is already acquainted with its main points. It has been modified in some respects and widened in others by the committee, but as it now stands will, it is believed, if ultimately adopted, give the legislature power to deal with the Chinese question along the line of the policy above outlined.

The only other legislation that your committee can recommend is a bill hereto attached requiring laborers to take out a license before authorized to do common labor in this Kingdom, such license to be given as a matter of right for a nominal fee, to be good only for two years and only for the district in which it is granted. This bill it is believed is constitutional and necessary as a police regulation, serving to identify, individualize, and locate laborers, thus doing much to prevent evasion of taxation, vagrancy, and other laws and to eliminate that class of semi-idle perambulatory labor that is now floating around the country and congregating in the towns.

In conclusion, your committee consider that, in recommending the passage of the constitutional amendment and bill in question, they have granted the main relief

asked for in petition numbered 55, popularly known as the anti-Chinese petition, and therefore recommend that the same be laid upon the table, to be considered with the report and the bill and constitutional amendment accompanying the same.

Respectfully submitted.

W. E. FOSTER.
W. A. KINNEY.
J. MAGUIRE.
GEO. H. DOLE.
JOS. U. KAWAINUI.

The undersigned concur in the recommendations of the above report and the legislation therein proposed.

JONA. AUSTIN.
H. P. BALDWIN.

[Inclosure 2 in No. 201.]

PROPOSED AMENDMENT TO THE CONSTITUTION.

Be it resolved by the legislature of the Hawaiian Kingdom, That the following article be and thereby is, proposed as an amendment to the constitution:

I.

The legislature may by law name or limit the occupation or employment of every kind whatsoever in which Chinese, or any body or class of Chinese, may lawfully engage or continue to pursue; the estate and interest in land they may acquire, or acquiring, hold, and the duration thereof; and the number of years, not less than six, during which any Chinese may lawfully reside in the Hawaiian Kingdom; and may provide for the registration and identification of Chinese: *Provided, however*, That no law shall operate to make it unlawful for any Chinese to engage in the cultivation or manufacture of rice or sugar: *And provided, further*, That no Chinese in the Hawaiian Kingdom, when this amendment becomes a part of the constitution, shall thereafter be compelled to depart the same, except such Chinese as shall be legally sentenced to transportation or deportation for felony.

The legislature may enforce the provisions of this amendment by appropriate legislation; and no such legislation shall be declared unconstitutional because confined in its operation to Chinese, or any body or class thereof.

In this amendment "Chinese" means any person or persons, male or female, wholly of Chinese or Mongolian birth or descent, whether born in China or elsewhere, and whether citizens or subjects of China or any other country, and shall include and apply to all and every person or persons wholly of Chinese or Mongolian birth or descent who now are or hereafter may be a citizen or citizens, subject or subjects of the Hawaiian Kingdom: *Provided, however*, That the provisions of this amendment shall not be construed to include or apply to persons of Japanese birth or descent.

No. 623.

Mr. Merrill to Mr. Bayard.

No. 204.] LEGATION OF THE UNITED STATES,
Honolulu, September 11, 1888. (Received October 9.)

SIR: I have the honor to inclose a copy of an act passed by the legislature of Hawaii and approved on the 10th instant, amending the law of 1887 relating to the regulation of Chinese immigration.

I have, etc.,

GEO. W. MERRILL.

[Inclosure in No. 204.]

By authority.

AN ACT to amend Chapter XXVIII of the laws of 1887, relating to the regulation of Chinese immigration.

Be it enacted by the King and the legislature of the Hawaiian Kingdom—SEC. 1. Section 2 of Chapter XXVIII of the laws of 1887, being an act entitled "An act to regulate Chinese immigration," is hereby amended so as to read as follows:

"SEC. 2. From and after the passage of this act no Chinese coming from parts beyond the Hawaiian Islands shall land, be landed, or permitted to land in or upon the Hawaiian Islands, except such Chinese as shall, at the time of his arrival at any port of this Kingdom from abroad, have a permit personal to himself to enter the Kingdom, granted, signed, and sealed by the minister of foreign affairs of the Hawaiian Kingdom under and subject to regulations to be prepared and published by him, by and with the consent of the cabinet, excepting as hereinafter provided, and excepting all Chinese to whom or for whom such personal permit to enter the Kingdom has heretofore been granted, as shall be shown by the records of the office of the minister of foreign affairs: *Provided, however,* That nothing herein shall be held to conflict with the provisions of an act to limit the time within which permits for Chinese to enter the Kingdom may be used, approved July 4, 1888."

SEC. 2. Section 3 of said Chapter XXVIII is hereby amended so as to read as follows:

"SEC. 3. If any master of a vessel shall bring any Chinese without such permit into any port of this Kingdom from abroad with intent to land such Chinese in this Kingdom, or if such master shall land or attempt to land any Chinese in this Kingdom without such permit, or if such master or any other officer of such vessel shall permit such Chinese to escape from such vessel while within Hawaiian jurisdiction, such master (or other officer in fault in the premises in case of an escape) shall be liable on conviction to a penalty of two hundred dollars for each Chinese so brought into any port of this Kingdom, or landed, or attempted to be landed, or who shall escape from such vessel within Hawaiian jurisdictiou; and the master of such vessel shall be compelled to re-embark such Chinese as shall unlawfully land, or escape, or be landed from such vessel, and upon his neglect or refusal to do so, after notification by the minister of foreign affairs, the marshal, any sheriff, the collector-general of customs, or any officer of customs, he may be forthwith arrested without warrant, and upon conviction of such neglect or refusal, as aforesaid, he shall be liable to a penalty of two hundred dollars in respect of each Chinese whom he shall have so refused or neglected to re-embark."

SEC. 3. There are hereby added to said Chapter XXVIII four new sections, to be numbered sections 3 A, 3 B, 3 C, 3 D, respectively, to read as follows:

"SEC. 3 A. Any Chinese, whether a passenger on or a member of the crew of any vessel arriving in Hawaiian waters from abroad, who shall land, or attempt to land, upon Hawaiian shores, except he be provided with a personal permit to enter the Kingdom, as provided in section 2 of this act, shall be liable, on conviction thereof, to a penalty of two hundred dollars. If any Chinese shall, with intent and purpose to gain access to this Kingdom, tender or present, or cause to be tendered or presented to any officer of customs or other officer of the Hawaiian Government, any ticket, permit, passport, or other document other than a valid permit personal to himself for such Chinese to enter the Kingdom, the fact of such tender or presentation shall be deemed conclusive evidence of an attempt on the part of such Chinese to land in this kingdom without a permit.

"SEC. 3 B. No vessel which shall have brought any Chinese into any port of this Kingdom with intent on the part of the master or owners of such vessel to land them on the these shores, such Chinese being unprovided with valid personal permits, as in this act provided, shall be granted a clearance from any custom-house, or permitted to leave any port of this Kingdom while any of the Chinese so brought into such port by or upon such vessel shall be in custody of any officer of this Government, not upon such vessel, or on bail awaiting any judicial proceedings as to the right of any of such Chinese to land in this Kingdom: *Provided,* That if the master, owners, or authorized agents of such vessel shall execute and deliver to the collector-general or any collector of customs a good and sufficient bond or bonds, with sufficient sureties, in a sum of not less than three hundred dollars in respect of each such Chinese so in custody, or on bail, conditioned for the prompt deportation from this Kingdom of all such Chinese as shall be, upon such proceedings, denied the right to land in this Kingdom, together with all costs and expenses incident to the custody of such Chinese while awaiting such deportation, such vessel shall be allowed to depart the Kingdom. All bonds in this section provided for shall be deemed forfeited, and suit may be sustained thereon unless within thirty days from the rendition of final judgment deny-

ing the right of any Chinese in respect of whom such bond shall have been given to land in this Kingdom, such Chinese shall be deported from this Kingdom by the obligor in such bond.

"SEC. 3 C. No court of this Kingdom shall release or permit to land, or go abroad in this Kingdom, upon *habeas corpus* or other proceedings, any Chinese who shall have come from ports beyond the Hawaiian Islands, unless such Chinese shall show affirmatively that he possessed and presented a valid permit, personal to himself to enter the Kingdom.

"SEC. 3 D. Any vessel by or upon which any Chinese shall be brought into any port of this Kingdom without a permit personal to such Chinese to land in this Kingdom shall be liable for any penalty that shall be adjudged against any officer of such vessel in respect of the bringing of such Chinese to Hawaiian ports, or landing or attempting to land, or permitting to land such Chinese upon Hawaiian shores, or permitting such Chinese to escape from such vessel within the Hawaiian jurisdiction, or for refusal of such officer to re-embark or deport such Chinese, and such penalty may be enforced by the seizure and sale of such vessel, or any of her apparel or furniture, after rendition of a decree to that effect in any court of competent jurisdiction. Whenever in the course of any prosecution or other suit under this act, any person shall allege in defense of such prosecution or suit, the possession by himself or any other person or persons of a permit or permits to enter this Kingdom, it shall be incumbent upon the person so alleging such possession to prove the validity of such permit or permits, to allow the person or persons so possessing the same to enter this Kingdom."

SEC. 4. Nothing in this act contained shall be construed to repeal or amend paragraph 2 of section 5 of said Chapter XXVIII of the laws of 1887.

SEC. 5. This act shall take effect from and after its approval, and all acts and parts of acts in contravention herewith are hereby repealed.

Approved this tenth day of September, A. D. 1888.

KALAKAUA REX.

By the King:
L. A. THURSTON,
Minister of the Interior.

No. 624.

Mr. Merrill to Mr. Bayard.

[Extract.]

No. 211.] LEGATION OF THE UNITED STATES,
Honolulu, September 29, 1888. (Received November 3.)

SIR: I have the honor to inform you that, as instructed by the Government of Great Britain, the British commissioner resident here recently addressed a communication to the Hawaiian minister of foreign affairs protesting against the Hawaiian Government granting to Audley Coote or any other person the "exclusive right and privilege to construct or land a submarine electric telegraph cable or cables, which shall reach to or from any British possession or colony upon the shores of any island of the Hawaiian group," as provided in section 2 of an act relating to submarine cables, approved December 16, 1887, and published on page 46 of "session laws, 1887," forwarded to the Department with my No. 177, of March 29, 1888.

On the 28th instant, in reply to the protest, the minister of foreign affairs in substance stated that His Majesty's Government regarded the granting of such a privilege as entirely within the control of the Government, and an inherent right of sovereignty pertaining to Hawaii as an independent state.

In this connection I will state that, in several interviews with His Majesty's minister of foreign affairs I learn that it is quite improbable

that Mr. Coote by the 1st of August next will be able to give assurances that the cable will be completed by the 1st day of August, 1890, as required by the submarine cable act.

In fact, Mr. Coote is not meeting with that encouragement at one time anticipated by him, and it is confidently believed here that the projected cable between British Columbia and Australia *via* Hawaii, under his contract, will not be completed.

I am assured that for this Government to render all the financial aid possible in the laying of an electric telegraph cable between some point in the United States and the Hawaiian Islands would meet the hearty support of His Majesty's Cabinet, and be generally approved by residents and those interested in the welfare of this Kingdom.

While the sentiment here is largely in favor of some cable to connect these islands with the outer world, yet at the present time the popular feeling is without doubt in favor of a terminus on United States territory, and the hope is often expressed that such an enterprise may receive such practical encouragement from the United States or citizens thereof as will insure its success.

It is believed that such an enterprise completed would greatly strengthen the material commercial interests of the two countries, and by daily contact firmly cement to the United States the kindly feeling of those who are to control the political future of Hawaii, and largely assist in preserving the autonomy of this Kingdom. Agents of English capitalists are seeking investments in the different islands, and now are contemplating the purchase of large tracts of land suitable for agricultural purposes, on the islands of Kauai and Hawaii, while an English company owns an exclusive right to build and operate a street railway throughout Honolulu and suburbs for a term of years, and which at the present time is in course of construction, and soon will be in full operation.

So far as possible these and similar enterprises direct trade and influence through English channels, encourage British lines of commerce, and readily assist any enterprise which tends to bind British interests to those of Hawaii.

With a steam-ship line and cable connection with the British possessions in North America the people of this island Kingdom would naturally become imbued with the opinions of their commercial connections and imperceptibly absorb the sentiments and feelings of those controlling the source of their daily intelligence.

The people here are earnestly desirous of and doubtless will eventually obtain cable communication with the coast of North America, and it is hoped that it may terminate on United States soil, thus strengthening what ought to be an indissoluble commercial and political bond.

The laying of a cable between these islands and America I consider no longer problematical, but when, by whose aid, and on what part of the continental coast it shall terminate, I conceive to be of vast importance to the United States, as by bringing these people in daily contact with the world through United States sources, would largely and imperceptibly aid in the natural gravitation of commerce and political influence to our country, and would silently yet strongly tend to quiet the periodical unrest natural to a segregated, ocean-bound community.

I have, etc.,

GEO. W. MERRILL.

No. 625.

Mr. Merrill to Mr. Bayard.

No. 213.] LEGATION OF THE UNITED STATES,
Honolulu, October 6, 1888. (Received November 3.)

SIR: I have the honor to inform you that H. B. M. S. *Hyacinth*, Captain Bourke commanding, left this harbor on the 3d instant on a cruise in the south.

While the impression prevails here that the captain has departed for Samoa, yet, in fact, I am reliably informed, he goes direct to Raratonga, one of the group of "Cook's Islands" or "Harvey Archipelago," situated about 20 degrees south latitude, and 157 degrees west longitude.

The cruise is for the purpose of taking possession of, or establishing a protectorate over, the group on behalf of Great Britain.

This action is alleged to be in response to a request of the authorities at Raratonga, who, it is claimed, fear occupation by the French.

I have, etc.,

GEO. W. MERRILL.

HAYTI.

No. 626.

Mr. Thompson to Mr. Bayard.

No. 153.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 14, 1887. (Received November 29.)

SIR: On the 19th ultimo the National Assembly was called in extraordinary session, which ended the 10th instant; the members were called together in order that they might examine and ratify certain arrangements made by the minister of finance and the National Bank of Hayti on his recent visit to Paris. These were the projects:

(1) A law to establish a new treasury service.

(2) A law to substitute new paper money for that in circulation.

(3) Law converting the exterior debt and consolidating the floating debt.

(4) Law regulating the interior debt (*caisse d'amortissement*), also the back floating debt. All of these laws were passed.

By the first, a contract has been sanctioned between the National Bank and the Government to the effect that the sum of $283,333.33 is to be paid by the bank to the treasury department at the end of each month for the purpose of paying the current service, as employés, pensions, rations to the army, etc. The bank takes entire charge as guaranty, and pays out from the sum of all duties on imports into the Republic, receiving as compensation 2 per cent. per month on the amount paid out by them, and 9 per cent. per year on advances made. This contract is for five years.

In the second law the Government paper money in circulation at present will be replaced by bank paper, simply an interchange.

It is the third and fourth laws that are interesting to us, and particularly the latter, as affecting the value of the bonds held by American citizens, viz, those of Heuvelmann Haven & Arci, and of Mrs. Fanny Oaksmith.

I inclose herein, marked A, with translation B, copies of the law above named. You will observe that these bonds in value have been reduced 20 per cent., from $100 each to $80 each, and the interest from 6 per cent. to 5 per cent. *per annum;* and, furthermore, all back interest due thereon, and up to December 31, 1887, instead of being liquidated, is to be converted into the new $80 bonds.

As there is but little time for action (six weeks) before these bonds are to be changed, without losing six months' interest, and in view of the fact that the above cited bonds were obtained for our citizens by instructions from the Department, and through the good offices of my predecessors, and believing I am only anticipating instructions had time permitted them to have been requested by me and received in the premises, I have addressed dispatches to the secretary of state of foreign affairs relating to these bonds, as to their value and the back in-

terest. Copies of such dispatches are herein inclosed, marked, respectively, C and D. There are many thousands of dollars' worth of similar bonds held by merchants and brokers here who have bought the same from time to time for a mere bagatelle, while our citizens received these bonds for their face value, probably with implicit confidence; therefore, I do not believe they should be placed in the same category with commercial speculators in this city. True, these were not international debts, but at the time the Department was interested in their payment, and the minister accredited here was instructed to occupy himself with their settlement; this is the reason for the action I have taken.

As soon as I can state anything relating to this subject, and at all events continuing the same line of argument unless instructed otherwise, I will inform you of the result when obtained from the foreign office.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 153.—Translation.]

Law regulating caisse d'amortissement bonds and floating debt—regulating the interior debt, called the sinking fund, as well as the back floating debt.

Salomon, President of Hayti:

Whereas (1) That the definite regulating of the interior debt of the country becomes obligatory for the order and the regularity of our financial administration.

(2) That it is necessary to appropriate in payment of the interest and the sinking fund of this debt special and sure resources, so as to assure hereafter the reimbursement, at fixed dates and on simple presentation at the wicket of the National Bank, of the shares due, or of the titles to be withdrawn after the drawing by lot.

(3) That under these conditions of the regularity of payments a light sacrifice, the same as the holders of the exterior debt have made, imposes itself on those of the interior debt, who will no longer be exposed to the long delays or the exactions of a too onerous brokerage.

Considering (1) The law of November 17, 1876, tending to the creation into a sinking fund of the arreared public debt; (2) the additional of August 26, 1877; (3) the contract signed at Paris, August 11, 1887, between the delegate of the Government and the National Bank.

From the advice of the council of the secretaries of state has proposed and the legislative body has voted the following law:

ART. 1. The interior debt in arrear is composed hereafter of the old titles of 100 gourdes of articles 6, 7, and 9 of the sinking fund bearing 6 per cent. per year; (2) of all pay orders for salary whatever drawn up monthly and unpaid up to September 30 last; (3) of the interests due on the titles of the sinking fund up to December 31, 1887; (4) of all the public effects suffering; (5) of the amount of the commission of 2 per cent. allowed to the National Bank on the nominal capital of the debt to be converted and consolidated.

In that which concerns the special titles bearing 18 per cent. it is left to the Government the faculty to take in their regard all just and lawful measures so as to safeguard the interest of the State.

ART. 2. Commissions, in which the bank shall always be represented, shall be instituted by the Government for the verification of all the categories of title spoken of in the preceding article.

ART. 3. For each of the old titles of articles 6, 7, and 9 of the sinking fund verified and recognized as valuable there will be delivered through the agency of the National Bank to the party entitled thereto a new title of 80 gourdes; the titles of the other categories shall be of 100 gourdes each.

They shall bring 5 per cent. interest per year; they shall be of different colors numbered by categories, have attached half-yearly coupons and bearing three signatures —that of the one encharged with the service of the sinking fund, that of a member delegated from the chief comptroller's office, and for control that of the director of the National Bank.

ART. 4. The fractions resulting from the couponing of the values shall be inscribed

on a special register of the bank; a receipt shall be given, and a public regulating commission will make known what shall be decided in regard to them.

ART 5. The old titles of public effects, and whatever withdrawn from circulation, shall be canceled under the care of the bank, with mention made of the respective numbers that shall replace them, classified and bundled up to be remitted to the secretary of state of finances.

ART. 6. The interests on the old titles of the sinking fund shall cease from January 1, 1888.

The holders who exchange their titles before that date will alone have the right to receive interest for the first semester. After that delay the others will have right only to interest of the following semester that comes after that of the exchange of their title.

ART. 7. After the 1st of January, 1889, no titles whatever will be exchanged, and all reclamation in this regard will be null and of no account.

ART. 8. The service of the interest on the new titles shall take place on the 1st of January and the 1st of July of each year, at the wicket of the National Bank at Port au Prince in return for the expired coupon. In consequence, and as it is stipulated in article 6, the first coupon shall be paid the first of July of the same year.

ART. 9. Independently of the service of interest there shall be operated on the capital of the new titles a sinking fund of 1 per cent. per year, the said sinking fund augmenting itself each year gradually from the interest of the canceled titles of the preceding year.

The sinking fund shall be annual and shall take place by drawing by lot the 1st of June of each year for the re-imbursement of the titles to be made on the 1st of July following.

The titles coming from the wheel in the drawing that shall take place publicly at the National Bank, under the care of the latter and in the presence of a delegate of the secretary of state of finances and of the one encharged with the sinking fund, cease to have any right to interest from July 1st.

The first drawing will take place on the 1st of June, 1888.

ART. 10. As soon as the work of conversion and consolidation shall be finished by the exchange of the titles there shall be drawn up a table for each category of the interior debt, fixed as is stated in articles 1 and 2.

The total extinction of the debt, after the basis laid down in article 9, shall be fixed later.

ART. 11. To assure the service established by the present, the Government delegates to the National Bank from January 1, 1888, and as specially affected title, a sum of fifty-hundredths of a dollar in gold per 100 pounds of coffee, to be raised on the exportation dues, and the amount shall be converted into national money at the market rate and for the account of the Government.

ART. 12. By means of this declaration the bank engages itself to perform the service of which it is question, and to open in its books a special account to that effect in accumulating the receipts effectuated to apply the amount to the payment of the half-yearly coupons and the sinking-fund titles.

The Government on its part forbids the touching of the funds for any motive whatever.

ART. 13. In case that this amount set apart is not sufficient to secure at the end of a half year, or of one year, the payment of the interests due and the liquidation, the Government engages itself, so as to avoid all interruption in the payments to be made, to make good the deficiency by means of other resources; if there is an excess it will be entered by right to the credit of the account opened for that purpose.

ART. 14. There shall be allowed to the bank a commission of 1½ per cent. on the service of the interests and of the interior debt converted or consolidated.

ART. 15. The present law abrogates all laws or provisions of laws that are contrary thereto; it shall be printed, published, and executed at the diligence of the secretary of state of finance and of commerce.

Given at the Palace of the National House at Port au Prince, November 7, 1887, the eighty-fourth year of the Independence.

The president of the senate.

M. MONTASSE.

The secretaries:

S. M. PIERRE.

BADÈRE.

Given at the House of Representatives, at Port au Prince, November 8, 1887, the eighty-fourth year of Independence.

The president of the House:

J. C. ANTOINE.

The secretaries:

CL. LAFONTANT.

JH. CODIO, Jr.

In the name of the Republic:

The President of Hayti orders that the above law of the legislative body be vested with the seal of the Republic, printed, published, and executed.

Given at the National Palace, at Port au Prince, November 9, 1887, the eighty-fourth year of the Independence.

By the President:

SALOMON.

The secretary of state of finances and of commerce:

C. FOUCHARD.

[Inclosure 2 in No. 153.]

Mr. Thompson to Mr. St. Victor.

No. 56.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 12, 1887.

MR. MINISTER: The undersigned minister resident of the United States of America has the honor to invite the attention of the Hon. Brutus St. Victor, secretary of state of foreign relations, to the law passed the 9th instant relative to the bonds of the Caisse d'Amortissement, as bearing connection with such of those bonds held by this legation for American citizens.

The undersigned allows himself to remark that since the aforesaid bonds held at this legation are not such as were obtained by purchase at low rates as a speculation, but were given by the Haytien Government in payment of claims in lieu of advancing the same amounts in specie currency to settle these ascertained claims, it is not just to lower their face value and diminish by 1 per cent. the interest they should by law call for annually.

The undersigned feels certain that the Haytien Government, in its equitableness, will discriminate between the bonds herein-above mentioned and those obtained by purchase as a commercial transaction.

It may be well to state that the bonds intrusted to the custody of this legation were obtained by agreement between the representative of the United States on one side, and the secretary of state of foreign affairs of Hayti on the other; consequently each bond in comparison to those obtained otherwise may safely be considered a bond *sui generis*, and this may be well illustrated by the fact that there has been no traffic whatever in the interest payments.

The undersigned requests most respectfully of the honorable minister for foreign affairs to examine the particular cases herein stated, and to agree that there should in no way be a change in the value of obligations when given internationally, by diplomatic intervention and arrangement. Relying on a response to this dispatch at an early day, I avail, etc.,

JOHN E. W. THOMPSON.

[Inclosure 3 in No. 153.]

Mr. Thompson to Mr. St. Victor.

No. 57.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 12, 1887.

SIR: I have the honor to call your particular attention to the contents of your dispatch dated June 1, 1887, wherein it states that on the return of the honorable minister of finance and commerce, the payment to such date would be made (à la période échue jusque'à ce retour), of the interest on such bonds of the Caisse d'Amortissement as are held at this legation for certain American citizens.

The undersigned, in placing this subject before the honorable minister for foreign affairs, allows himself to remark, in view of the report already having been made that such interest was assured for and up to the month of October ultimo, that it will give him great satisfaction to confirm such report.

Awaiting therefore a reply at your earliest convenience, I beg, etc.,

JOHN E. W. THOMPSON.

No. 627.

Mr. Thompson to Mr. Bayard.

No. 155.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 26, 1887.
(Received December 12.)

SIR: Referring to my antecedent dispatch, No. 163, of the 14th instant, I have the honor to call to your attention inclosure A, with translation B, the reply from the honorable minister for foreign affairs relative to the new law governing the bonds of the Caisse d'Amortissement and those of such bonds held at this legation for our citizens; also the back interest due on the bonds. You will observe the honorable secretary of state refers me to his colleague of finance, after the question had been discussed at a cabinet meeting. I made haste to send a note to the minister of finance, and in reply thereto received a letter from him, wherein he regretted being unable to meet me before Tuesday, the 22d instant. At 4 p. m. that day I called at his city residence; was received most cordially, and we entered into the discussion, first, as to the manner the bonds were received by our citizens; secondly, as to the back interest, one year three months and fifteen days' interest being due December 31, 1887.

I may here state that after the promulgation of the law regarding a diminution in the value of these bonds, I was called upon by the French chargé d'affaires at one time, and by the German diplomatic consul at another time, both of whom wished to find out my views as to the acceptation of or protestation against such law. I could give them no advice on the subject whatever, particularly as I have cause to believe that our citizens' bonds are the only bonds that were in payment of contractual claims and settled through the good offices of this legation; but it is now generally understood by foreigners here that their Governments can not legally make this law a question for international claims, for if foreigners take risks outside of their own country they must run the risk of loss or gain; hence all are making the best of it.

By my argument in my private character, I was able to convince the Hon. Calesthenes Fouchard that the arrangement he had made was an injustice to my countrymen; that with such a precedent they later might again reduce the bonds until their intrinsic value became *nil*, and that a proper discrimination should have been made in their case. Our argument was long, and the details many, but I surpassed my most sanguine anticipations in an equitable conclusion, which was:

First. That the sum of interest due to October 15, 1887, be paid in full on the 20th of December proximo.

Second. That the three months and fifteen days' interest (to December 31, 1887) be converted into the new bonds.

Third. That in the exchange of the bonds for new ones we should simply make an interchange; that is to say, they will be exchanged for their face value, dollar for dollar, and bear the same title as at present, viz, *cent piasters fortes*, but will draw interest as the new law states, 5 per cent. per annum. In this manner, as there are at this legation bonds to the value of $176,800, our citizens have been saved, on the capital alone, $35,360.

By the new law all back interest and up to December 31, 1887, is to be converted into bonds; now, instead of our citizens having all of their interest, which amounts to $12,818, converted into bonds, they will receive $10,608 interest to October 15, 1887, cash, December 20,

1887; and the remaining interest from October 15 to December 31, 1887, $2,210, alone will be converted into bonds; in fact, their loss will be simply nominal compared with the other holders, and for the future a loss of 1 per cent. per year on the interest is all they will have to sustain. I inclose herein, marked C, with translation D, the dispatch from the honorable Brutus St. Victor, confirming the agreement between his colleague and myself, to which I sent a reply immediately, and in accordance to his request, copy of which reply is herein transmitted, marked E.

According to the verbal instructions received from the Department last year, I notified all parties holding bonds (after receiving instructions that I could use my good offices for them) that the interest could not be collected unless the bonds were here. Some sent their bonds; the loss to the others is their own fault, and I can see no means of assisting them should they request, for I could only use my personal efforts to the utmost for those citizens who had deposited bonds at this legation. In making such an arrangement with the minister of finance, and I am confident none other will be so successful, I used every endeavor to save from pecuniary loss those who had placed bonds in my custody. Another fact is this: Many of the holders of such bonds, American citizens, have used them as means of commercial transactions in Hayti, while the bonds at this legation have been here solely for the purpose of collecting the interest thereon; consequently I think their holders should have received all of the protection possible, and flatter myself that they have been protected from material loss. I therefore respectfully submit this to the Department's consideration, laying particular stress upon the fact that had no action with a profound earnestness been taken, our citizens, with implicit confidence in the integrity of the Haytian Government recognizing their debt, would have lost 20 per cent. of their capital and one year's interest, aggregating nearly $50,000.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 155.—Translation.]

Mr. St. Victor to Mr. Thompson.

DEPARTMENT OF STATE, FOREIGN RELATIONS,
Port au Prince, November 17, 1887.

MR. MINISTER: I have had the honor of receiving your two communications dated the 12th instant, relative to the interest and the bonds of the Caisse d'Amortissement that your legation hold for the account of American citizens.

I hastened to communicate to the council of ministers the contents of those two dispatches, and I have the honor to inform you that the Government has decided that my honorable colleague, the secretary of state of finances, will have a personal understanding with your legation for the regulation of the two questions to which you have had the kindness to call my attention.

Accept, etc.,

B. ST. VICTOR.

[Inclosure 2 in No. 155.—Translation.]

Mr. St. Victor to Mr. Thompson.

DEPARTMENT OF STATE OF FOREIGN RELATIONS,
Port au Prince, November 23, 1887.

MR. MINISTER: In referring you to my dispatch of the 7th instant, in answer to your letters of the 12th of this month, I would by this present confirm the understanding arrived at between you and my honorable colleague of finances following your interview yesterday at his residence.

"(1) The department of finances will pay to you on the 20th of December next the interests that are due up to October 15 on the titles of the Caisse d'Amortissement of which you are the holder for your countrymen residing in New York, amounting to 10,000 gourdes, to be verified.

"(2) The interest from the 15th of October to the 31st of December of this year will be added on to the titles as the law provides.

"(3) It is understood that the same wording relative to the money borne on the old titles shall be reproduced on the new."

Please let me know, Mr. Minister, if we gree on these points, and accept, etc.,

B. ST. VICTOR

[Inclosure 3 in No. 155.—Translation.]

Mr. Thompson to Mr. St. Victor.

No. 68.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 23, 1887.

MR. MINISTER: I have the honor of acknowledging receipt of yours of this date, and in response thereto beg most respectfully to remark that in the article speaking of the interest to be paid December 20 proximo, it would be well to note the amount as being 10,608 gourdes, instead of 10,000, "*sauf vérification.*"

In the second case we are in accord that the interest from October 15 ultimo to December 31 proximo, amounting to 2,210 piastres, be converted into the same bonds as in the third and last case, viz, that the new bonds will be made out the same in face value as the "*anciens titres,*" which call for "*cent piastres fortes.*"

Expressing to you, Mr. Minister, the assurance of my most distinguished consideration, I allow myself to remark that in such equitable manner it is certain the representatives of our respective countries may always be enabled to conserve the most cordial relations between the two Governments.

JOHN E. W. THOMPSON.

No. 628.

Mr. Thompson to Mr. Bayard.

No. 161.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, December 24, 1887.
(Received January 11, 1888.)

SIR: It is now reported here that in pursuance of a law passed by the Legislature and sanctioned by the President of Hayti, the contract passed between the Government of Hayti and the Count d'Oksza, who has obtained the concession to lay a submarine cable between the Mole St. Nicholas and Santiago de Cuba, has been sanctioned, and he is to commence his labors in that direction by Christmas.

The cable is to connect with a line of telegraphy from the Mole St. Nicholas to the capital and other important cities in Hayti, and also to be continued to the Dominican frontier. The concession is granted for sixty years.

I inclose herein, marked A and B, respectively, copy and translation of the law as published in Le Moniteur of December 10, 1887.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 161.—Translation.]

Law bearing on the sanctioning of a contract for the establishment of a submarine cable.

Salomon, President of Hayti:

Considering that it imports to place the country in rapid communication with the nations of Europe, the two Americas, and the other Antilles by submarine cable in view of facilitating our political and commercial relations;

Considering that it imports to join together the principal cities of the Republic by

a line of telegraph that shall be stretched to the Dominican frontier on the proposition of the secretary of state of the interior, and from the advice of the council of the secretaries of state;

Has proposed, and the legislative body has voted, the following law:

ARTICLE 1. Is and remains sanctioned the hereto annexed contract, passed between the Government of Hayti, represented by Mr. Etienne Charles Laforesterie, envoy extraordinary and minister plenipotentiary of the Republic of Hayti near the Government of the French Republic, and Mr. the Count d'Oksza, Chevalier of the Legion of Honor of Isabella the Catholic of the Conception, etc., etc., who has the concession of several telegraphic, lines in Europe, Africa, and America, residing at Paris, No. 22 rue Beaune, for the establishment and working of one or more submarine cables, joining Hayti to Santiago de Cuba by the Mole St. Nicholas.

ARTICLE 2. The present law abrogates all laws or provisions of laws that may be contrary thereto, and shall be executed at the diligence of the secretaries of state of the interior and of finance and commerce.

Given at the National Palace of Port-au-Prince October 28, 1887, eighty-fourth year of the Independence.

SALOMON.

By the President:

The secretary of state of the interior,

ARTEAUD.

The secretary of state of finance and of commerce,

C. FOUCHARD.

No. 629.

Mr. Thompson to Mr. Bayard.

[Telegram.]

SANTIAGO DE CUBA, *May* 26, 1888.

SECRETARY OF STATE,
Washington:

Thompson, minister resident Hayti, telegraphs here by French cable: "Advise Secretary State, Washington, send war vessel. Revolution imminent, Port au Prince."

REIMER.

No. 630.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 181.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, May 26, 1888. (Received June 18.)

SIR: Rumors of political troubles have been spreading over this Republic ever since the report some two months ago that President Salomon was mortally ill and would request of Congress a congé in order to leave Hayti and receive medical treatment abroad; and notwithstanding repeated open denials of the verity of these stories by the President they were retailed as truths.

Lately it has been said that the minister of France and myself had each sent for war vessels to assist the President in escaping from the country should civil troubles arise, the feeling being that his health would prevent him combating enemies that attempted to overthrow him.

Wednesday, the 23d instant, in an audience with President Salomon, when speaking of the situation, he assured me that everything was perfectly quiet, and that he had no anxiety.

Thursday morning a great commotion occurred in this city. Business houses were quickly closed; people were running here and there, seeking refuge in legations and consulates; the troops were called out; private citizens and soldiers were going about most conspicuously armed. I immediately left the legation to discover the cause of the trouble. Arriving at the office of the commandant of the "Place," I found the soldiers in great numbers loading their rifles with ball-cartridge and bringing out boxes of ammunition. I met my colleagues of France and Great Britain at the latter's legation, and we determined to use every means in our power to keep peace and tranquillity in the city for the benefit of protecting the lives and property of foreign citizens should the apparently serious turn of events continue. We sent for our horses and rode around the city, meeting at the post-office President Salomon, his ministers, many officers, and aids-de-camp. We were particular to approach him. After shaking hands with each, he said words to the effect that it was not a serious affair, as he had been forewarned; it only appeared that some people were tired of living. This sounded sufficiently serious to us, sustained by the looks of belligerents all around.

The city was declared in a state of siege by the publication of the following order:

DECREE.

Salomon, President of Hayti, in view of articles 197 and 198 of the constitution and the law of April 13 on the state of siege, with the advice of the council of the secretaries of state, has decreed and decrees what follows:

ART. 1. The arrondissement of Port au Prince is declared to be in a state of siege.

ART. 2. The present decree shall be printed, published, and executed at the diligence of the secretaries of state, each in what concerns him.

Given at the National Palace the 24th of May, 1888, the eighty-fifth year of the independence.

SALOMON.

By the President:

The secretary of state of war and of marine,

T. A. S. SAM.

The secretary of state of the interior and of agriculture,

M. MONTASSE.

The secretary of state of public instruction and justice,

ARTEAUD.

At the arsenal a piece of cannon guarded the street, and sentinels were stationed all about the city. The two Haytian war vessels were hauled around, presenting their broadsides to the city.

The report through the city was that Senator F. D. Légitime, ex-secretary of the interior and of agriculture, was suspected of being at the head of the movement. A guard was placed around his house, which was said to contain many armed men, who would resist should an attempt be made to arrest him. At this legation I was informed by several—all serious men, some in politics, others that were not—that if Senator Légitime was arrested, as they knew him to be an honorable man and not a conspirator, they, too, would return to their homes, arm themselves, and resist against such arrest. I again mounted my horse and went to confer with my two colleagues. They also had heard of these threats that were being openly made all over the city. Understanding that at midday troops would be sent to his house to arrest him or fire

upon him, we determined to go to the palace, confer with President Salomon, and, if possible, alleviate the peril of the situation. Arriving there a few minutes before noon, we found the grounds literally crowded with soldiers and armed citizens; a large mitrailleuse stood beside a heavy cannon, each fully equipped and menacing the entrance to the palace. The President was in council with his ministers, and requested us to ascend there without any delay. The French minister, the Count de Sesmaisons, dean of the diplomatic body, explained that we were not there to interfere in the least with the internal affairs or politics of Hayti, but in order to foster tranquillity in the city and pacify threatening danger we had felt it our duty to come before him and point out facts that we believed to be true, and which we also believed we could, with his permission, modify, so that they would have a less aspect of approaching warfare. While we were in this council I saw the steam-yacht of the Transatlantic Company, which is always under the French minister's orders, steaming out of the harbor, bound for the Mole St. Nicholas, carrying, among cablegrams from the French and British representatives, one from me, as follows:

SECRETARY OF STATE,
Washington, U. S. A.,
Send war vessel; revolution imminent.

THOMPSON,
Hayti.

I felt then we must use every endeavor to pacify matters for a few days; anything legal to gain time.

The President said at the moment we entered they were trying to formulate some manner of having Senator Légitime brought to the palace without any disturbance. We then proposed to accompany him there and act as bondsmen of his word of honor, if he declared that he would not by any method employ means of a revolutionary character or otherwise to upset, interfere with, or embitter the government of President Salomon. Some of the ministers objected to this, and finally, after rehearsing the whole affair, the President said:

I assure you, gentlemen, that Senator Légitime will come to this palace and depart therefrom in safety. I wish to talk with him; three of his friends and colleagues, the Minister St. Victor, the president of the senate, and Senator Pierre, my brother-in-law, will bring him here and return with him.

We could well appreciate the calming effect that would be produced upon the populace when seeing a suspected man they nearly all appear to honor quietly riding to the palace in such company. Our intervention had had its effect. That afternoon I received, as did my two colleagues, a card from Mr. Légitime, which, translated, read as follows:

MR. MINISTER:

I will write to-morrow to the diplomatic body. In the interval permit me to express my thanks for your intervention during this day.

The following morning I received the letter (copy herein transmitted, with translation) marked, respectively, "B" and "C."

The city remains in a "state of siege," and a feverish, latent uneasiness seems to pervade the thoughts and actions of every one.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 181.—Translation.]

Mr. Légitime to Mr. Thompson.

PORT AU PRINCE, *May* 25, 1888.

Mr. MINISTER: His excellency the President of the Republic, in speaking to me of the efforts made yesterday in my favor by the diplomatic body, has had the kindness to transmit to me at the same time the words of generous sympathy with which you reclaimed of the Government a guaranty for my person.

Permit me on this occasion to give you in these few lines, Mr. Minister, the proof of my highest gratitude.

Obliged to be on my guard against malevolence during the political crisis of yesterday, I had not ceased to rely for my safety on the right and on the good sense of my fellow-citizens.

The right! it is you who everywhere have the highest representation; and who better than your Government knows, by example, to make itself honored and respected?

I close this letter assuring you of my devotion.

D. LÉGITIME.

No. 631.

Mr. Thompson to Mr. Bayard.

No. 185.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, June 6, 1888. (Received June 16.)

SIR: I have to inform you of the arrival on the 4th instant of the U. S. S. *Yantic*, Commander O. F. Heyerman.

H. M. S. *Tourmaline*, Captain Biles, and H. M. S. *Wrangler* arrived the 2d instant; the former left here the day following.

I take this opportunity to inform you that the two rival aspirants as President Salomon's successor, Senator Légitime and Deputy Manigat, after considerable negotiation with this Government, were each given vessels to convey them from Hayti, the former going to Kingston, Jamaica, the latter to Santiago de Cuba; the Deputy Manigat, it is said, accepted $5,000 from the Government to defray his expenses, but Senator Légitime refused to accept anything. They departed at the same hour June 2.

The situation for the moment is apparently quiet, but the majority of the people seem to feel that the end has not yet been reached.

I write this hurriedly to send by the *Yantic*, en route to-morrow a. m. for Santiago de Cuba for coaling, and will report in full by the next mail.

I have, etc.,

JOHN E. W. THOMPSON.

No. 632.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 186.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, June 11, 1888. (Received June 20.)

SIR: Saturday, the 2d instant, I believe was only the end of the prologue in what might be called a political drama that commenced here the 24th ultimo, causing great excitement and trepidation in this

city, and which, sooner or later, must begin again, but with increased vigor. The facts of the whole movement appear to be as follows: As reported in my No. 181, trouble has been brewing in Hayti since the wide-spread belief in the illness of President Salomon. From utterances lately attributed to him it was thought, should he retire, he would cast such an influence for ex-Minister of the Interior General François Manigat, a deputy of the people, that he would become his successor. To counteract this influence those remaining of the Liberal party joined with others of the National party, in order to be prepared when the opportunity arrived to combat the candidature of General Manigat; they had consequently chosen as their candidate General F. D. Légitime, a senator of the Republic.

Comparisons had been drawn between the two abovementioned, Senator Légitime being eulogized as a humane man, honorable, brave, and without any prejudice as to color. Deputy Manigat, by his action when commander of the Government forces at Jacmel, in 1883, has been called barbarous, blood-thirsty, and accused of great hatred toward the whites and mulattoes, yet generous to a fault towards his friends. Both of them are black men. I have known Mr. Manigat intimately ever since my arrival here. Mr. Légitime I knew by reputation only.

Referring to my No. 181, I can say, from observation on May 24 last, from facts gleaned in consular dispatch No. 313, dated September 25, 1885, to the Department from Vice-Consul-General John B. Terres, from inquiries made by me and statements given by foreigners and natives, that the general opinion is, that the same tactics were about to be employed on May 24 past as were so disastrously put in force September 22 and 23, 1883. In such dispatch above quoted you will observe how all the fearful disasters of September, 1883, resulted from an attack of some young men to the number of sixteen or twenty; then the President had said how he could not control the friends of his government against his enemies. The mob, furious in their drunken frenzy and lust, burned down stores and private dwellings, pillaged them, and placed in danger, by their constant use of fire-arms, the lives of men, women, and children.

Mr. Burdel, minister of France, was at that time dean of the diplomatic body, and, had he used decision of character, firmness, and moral influence at the beginning of the disorders, very likely he could have materially bettered the situation; for when the ultimatum was sent to the palace the effects might be said to have been magical. Inclosed herein, marked "A," with translation "B," I transmit copy of the speech made by President Salomon in public audience on May 27 last. It is noticeable that while his excellency assures the people that all is perfectly quiet, nevertheless he says he will take measures to chastise the propagators and authors; and, furthermore, he alleges to have known something concerning a conspiracy menacing public peace, hence martial law is proclaimed in this city and at this date it remains in vigor.

Also inclosed, marked "C," with translation "D," is an editorial from La Vérité, an independent newspaper, treating of the situation on the 2d instant.

As I reported in my No. 185, Senator Légitime and Deputy Manigat each had a separate vessel placed at his disposal by the Government to convey him from Hayti, the former to Kingston, Jamaica, the latter to Europe via Santiago de Cuba.

This treatment of men thought to be conspirators is somewhat novel and rare in the history of Hayti; but had either one or the other been summarily dealt with, and particularly Légitime, the great probability

is that now we would be in the midst of a most savage and sanguinary warfare. I transmit, herein, with translation, respectively marked E and F, copy of a published letter sent to the editor of the Courrier d'Haïti from Mr. Légitime, while on board the steamer in which he took his departure. Sending away the leaders of these opposing factions has calmed the people and we may hope for a short respite from civil troubles. No doubt President Salomon in his wisdom had to oppose by an iron will the opinions of his councilors regarding the action he has taken in not executing either of these men, but by so doing he has shown that he fully appreciated the necessity, in order to keep from civil strife, of following out a line of conduct to pacify the dual political factions and likewise tranquilize factions and the non-politic natives. As a question of our present peaceableness, he has done well, but the fear must be entertained that it is momentary, so to speak, for the danger does not lie in any outside party; treason is being fostered in his own camp. All depends upon the President's health. Let him remain sound in body as at present; all is likely then to go well.

Consul-General Zohrab, of Great Britain, proposed to the French minister and myself the practicability of having always here an American, French, or English man-of-war, one or the other, on hand in case of an emergency, as either in a moment of peril would be equally interested to protect the interests of the other. I believe such would be a good thing as giving a certain confidence to foreign residents, for the moment they see a war vessel of one of the great powers enter here each one feels out of danger. Commander Heyerman, of the *Yantic*, informed me that should he not receive orders to the contrary at Santiago de Cuba he would return to Port au Prince, as, having been here and made inquiries into the status of affairs, he thought we would certainly lose nothing by such representation. Her majesty's steam-ship *Ready* is expected here shortly to relieve the *Wrangler*, and it is likely we shall have constantly for a while a French or British war vessel.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 186.—Translation.]

THE AUDIENCE OF MAY 27.—SPEECH OF PRESIDENT SALOMON.

Here are the words of the Chief of State to the audience of Sunday, May 27, last:

GENTLEMEN: I begin my audience in saying to you that order and tranquillity is maintained and will continue to maintain itself whatever be done. The country reclaims peace. There is only a panic. Everybody is in an emotion, and it sufficed for a nothing that everybody became frightened. Thus the same thing happened in 1843, when it was question of the overthrow of the government of President Boyer, I myself, who speak to you, being in church I saw the gun of a soldier fall and the charge went off; on going into the street, as I saw everybody run, I also started off and ran.

But I will own that I was frightened. [Laughter.] Therefore, my friends of Port au Prince, I invite you to be calm. I take all precaution, all measures so as to chastise the propagators and authors of the rumors of the other day. My government expected that rumor; we have even talked it over in the council, my ministers and myself, the day when it was decided to suppress the discounting (of Government paper). I knew that once the public employés were regularly paid there would be some discontented—those who live by the discounting, the favored of yesterday. [Here there are cries of "Long live the President of Hayti."]

The public mind is for peace—that peace that I have given to the country at the cost of so many sacrifices. I will maintain it by all means. If a shot is fired, which is not impossible, for there are persons who are crazy and foolish everywhere, the sun shall not go down without peace being restored. Avoid that, for bullets have no eyes; they may strike any one. It is not the merchants and people who work who are trying to disturb public order; it is the unclassified people who possess nothing

and are jealous of the position of others. I say it, and I repeat it again, never has the country enjoyed so much liberty and security; never has property been so well respected and requited.

To-day every poor one is putting a post in the ground; this is a sign of the security that the country enjoys. I was eleven years minister of the Emperor Soulouque, and I was reduced during all that time not to be able to cross the portal. They came to me and made me thousands of propositions against the Emperor, and I never lent ear to them. It is only lately that I have come to know "Oakwood" and "The Martyr's Cross." I am acquinted with all that is going on. There is this difference between the Emperor Soulouque and myself; it is this: The police informed him of all that was going on, while it is I who give instructions to the police to watch the conduct of such or such other individual.

Before coming to a last extremity I take all my precautions. Therefore let them not try to disturb the public peace, my friends! They say that I am about to leave the country; to go and be treated in Europe. Nothing is more false. I solemnly declare that I am not going away. If I have consecrated all my life to the well being of my fellow-citizens, as there remains, I will not say a few years, but a few days to live, why should I not sacrifice them to the country? If I went away it would be a flight, a desertion, a cowardice. On returning to Hayti I have sworn to leave my bones here.

The situation is good, my friends; yes, it is good, because everybody to-day is a partisan of peace. I am alive and they are disputing about the power! They covet my heritage. [Laughter among the audience.] It is also to me a question of pride, of self-esteem, and of dignity to conserve that power. I am, above all, chief of state, and I will not permit that they vilify the power in my hands. I have taken it from no one.

To-day is not an audience day, but on account of the rumors that they circulate and of all that has taken place at Port au Prince the few days past only, I felt bound to entertain you on the state of affairs.

Order and tranquillity, I repeat it, reigns on all points of the Republic!

[Inclosure 2 in No. 186.—Extract from "La Vérité."—Translation.]

THE SITUATION.

Still droll. That is all that can be said. On the whole no one knows much what there is. Only minds are uneasy; very unquiet even. We have seen last week a nothing but the population in a flurry. Last Saturday the report of a gun caused a great panic. Unfortunately, it seems to me that no great precautions have been taken to prevent these reports. The military and even individuals not belonging to the army are circulating with carbines on their shoulders. All have cartridges and sometimes their guns are loaded. It depends on the first comer to frighten families. It would be more prudent not to allow the soldiers to go about with their arms, and ammunition, particularly, should not be distributed to them only at the last minute. Too much precaution can not be taken to prevent that order be not disturbed.

Our article of last Saturday has produced a good effect. We warmly thank our readers for the kindly reception that they gave to it. The paper will be strong and will end in imposing itself, if it always marches in accord with the numerous public that reads it. We remain calm and moderate because we know that one imprudent word may occasion a great evil. We continue, therefore, to relate the facts with impartiality and to exhort our fellow-citizens to avoid all bloodshed. The country has need of the aid of all its children and of all without distinction. We will never urge on brothers to arm themselves against each other.

This language must astonish the authorities who detest us because we have never hesitated to examine their acts with independence.

The truth arrives to chiefs of state with difficulty. They are most often surrounded by persons interested in hiding it from them. They are therefore always inclined to consider as enemies those who from afar dare to make them hear it. As for ourselves, faithful to our programme, we will continue to tell the truth. According to all appearances the Chief of State was ignorant of the true state of affairs of the country, or at least of Port au Prince. He must be very badly informed. The panic of the few days past has doubtlessly revealed to him some curious things. Now that he is in condition to appreciate the situation we are certain that he will make all efforts to maintain peace.

He has declared solemnly that he did not intend going away; that he will not go away. This assurance has tranquilized those who feared anarchy and the disorders that might follow. It has produced a report very necessary, a report more accentuated by the news of the near departure of the two chiefs of parties.

The rumor is current that Messrs. Légitime and Manigat are about to take a short voyage of pleasure. They were advised to take this change of air. Mr. Manigat has

already asked for a leave of absence, which the house of deputies has granted to him, in its session of May 28. Will the departure of Mr. Manigat suffice to completely reassure the public mind? Here we do but echo the opinions; we do but relate what is said. It is with the power to hunt out the truth in what is being spread about. Well they pretend, the public, that they are persons, functionaries, who are preparing a blow in favor of the deputy, Manigat. And these functionaries will continue to cause uneasiness to families. Mr. Manigat in leaving the country certainly makes a sacrifice, for which they will be thankful to him. This sacrifice should not be useless. It should at least serve to calm, to entirely assure the public mind. Will it be imitated by those who, wrongly or rightly, they render responsible for the panic? That is what is being asked in a whisper.

On the whole, the horizon is clearing off. Thanks to the good-will of all, they will avoid the frightful catastrophe of which the perspective so frightened the families. And we think that our fellow-citizens will be wise enough not to cut each other's throats. It would be fine to prove to our detractors that we know how to get out of a critical situation without violence, without cannon-shot! What a joyful spectacle for the country, if at the expiration of the power of the present chief we name a new one without putting the country in blood and ashes.

Is it an unrealizable dream? We do not think so. We address ourselves to all those who sincerely love Hayti; to all the good citizens. They will encourage certainly the efforts that we attempt to make the law triumph. No more bloody struggles, no more gunshots. Peaceful struggles, lawful but sincere. We want to see now where true patriotism is to be found.

[Inclosure 3 in No. 186.—Extract from "Le Courrier d'Haïti."—Translation.]

LAST HOUR.

We make it our duty to stop our press to publish the following letter received only at 4 o'clock at our office:

Mr. GEORGES DAUZON,
Director of Le Courrier d'Haiti:

Mr. DIRECTOR: Before embarking for a foreign country and take the irrevocable decision to which I am condemned from a situation that I have not created and events of which I leave the responsibility to those who have provoked it, I believe it due to my honor and my dignity to make known to you that the Government, without doubt to give me a proof of its high deference, offered me a subsidy to defray the expenses of my voyage.

I accept the ostracism, but I do not accept the money, for when there is cause to make a sacrifice for his country the citizen should push self-denial to the extreme.

It is with regret that I separate myself from my fellow-citizens, but I esteem that the example of the sacrifice that I accept without murmuring will give all to understand that one must at certain moments know how to immolate his personal interests and his most sacred affections on the altar of his country.

I leave, confiding in their wisdom, happy if the sacrifice that is imposed on me, and to which I resign myself, could prevent new misfortunes to my country already so rudely tried. I am not one of those who have no scruples of trying to raise themselves to power on the bodies of their fellow-citizens and the smoking ruins of their country. All true citizens, all men of honor, will understand and approve me.

Strong in my conscience and above all of sacrifices and devotion to the Republic in the past, I feel happy to give it this last pledge of my love. I am proud to bear to my retreat the harsh satisfaction of having fulfilled, up to the end, my duty.

Accept, Mr. Director, the assurance of my esteem and of my high consideration.

D. LÉGITIME.

In the harbor of Port au Prince, on board of the *New Voldrogue*, June 2, 1888.

No. 633.

Mr. Adee to Mr. Thompson.

No. 107.] DEPARTMENT OF STATE,
Washington, June 11, 1888.

SIR: A telegram having been received at this Department on the 26th ultimo from our consul at Santiago de Cuba, stating that you con-

sidered a revolution to be imminent and desired the presence of a United States war vessel, the Navy Department was so advised and this Department was informed on the same day that Admiral Luce had been ordered to send one of his vessels from Port Royal to Port au Prince.

The Department has since received information that the *Yantic*, the vessel so sent, had reached Port au Prince and reports that there is now no apparent apprehension of revolutionary disturbances in Hayti.

It is hoped that full confirmation of this gratifying intelligence will be received from you.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

No. 634.

Mr. Thompson to Mr. Bayard.

LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, June 11, 1888.

SIR: I received a note from the honorable C. Fouchard, secretary of the treasury of the Haytien Government, on Sunday, the 2d instant, requesting an interview with me. We met the same day and remained together several hours. He assured me at first that all was perfectly quiet politically, but later on, to accomplish his desire, had to show by his conversation that his ideas "in toto" regarding political quietude were greatly at variance, for he acknowledged the anxiety he felt, and believing something would happen, begged me to promise to give him refuge should he be pushed too hard.

Not feeling able to give a promise of such a kind in advance of a case that could be considered only on its merits, and at the time, I simply reiterated to him his previous words that all was quiet and over, and while being sympathetic with him remained absolutely non-committal.

This would not be of such importance if I had not been informed a few days later by the French minister that he had been visited by the honorable Brutus St. Victor, and on a similar mission. This seemed to be evidence that even those who should be the most intimate with the actual Government had forebodings for the near future.

The general of the place has informed me, but with the request that I guard the secret, that the order had been given to arrest Senator Legitime or bombard his house in case of resistance on the 24th ultimo at midday, and had it not been for the diplomatic body such order would have been carried out, and then he with his soldiers would probably have been forced to attack the general of the arrondissement and his forces, for, as nearly all here, he was in sympathy with Legitime.

This information will, I presume, show you that for some days the situation was exceedingly critical.

I have, etc.,

JOHN E. W. THOMPSON.

No. 635.

Mr. Thompson to Mr. Bayard.

No. 188.] LEGATION OF THE UNITED STATES.
Port au Prince, Hayti, June 16, 1888.

SIR: In my No. 186 I inclosed a copy of the speech made by President Salomon in public audience the 3d instant, as published by La

Vérité. His excellency having deemed it necessary to correct certain errors in such publication, has pointed out such errors in the official organ of the Government, Le Moniteur, copy of which, with translation, I inclose herein, marked respectively A and B.

I also transmit herein copy, with translation, marked C and D, respectively, of an article that appeared in the Courrier d'Haïti in reply to an editorial published in the semi-official journal, L'Oeil, wherein it was most distinctly averred that there was nothing in the political movements that have lately taken place.

The article is sufficiently well put to call for some attention, as indicating the steps taken by this Government, which showed plainly that trouble of a serious nature was at hand.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 188.—Translation.]

EXTRACT FROM THE MONITOR OF JUNE 14, 1888.

The journals La Vérité and L'Avenir National, in their number of June 9 instant, have reproduced, very inexactly in several places, the words that his excellency the President of the Republic pronounced in his audience of Sunday, June 3. We cite among others the two following from La Vérité, where the thoughts of the President are quite falsely rendered. In the first place it is question of what his excellency said about the arrival of foreign vessels of war in our harbor:

"I see with regret, the presence in our waters of foreign war vessels. It is for me a cause of shame, a humiliation. They have come to protect the interests of their compatriots. My Government is strong enough to be at any hour master of all commotion, of all disorder. Foreign and Haytian interest will be watched over."

Far from that, here are the proper words of the chief of state on that subject:

"What is sad to see is, that the uneasiness that reigned in Port au Prince has caused to come to our harbor foreign vessels of war. It would be a shame, a humiliation for me if those vessels came to protect the interest of their compatriots, for my Government is sufficiently strong to be at any hour master of any disorder and to protect the interest of Haytians and of the foreigners who are in the country."

The other passage relates to what the President said of the proposals that were made to him during the time of the government of President Salnave. Here again the thoughts of the President are not the less distorted.

To show this it suffices to reproduce the text of La Vérité and the words of the President. In fact we read in the journal La Vérité:

"I come to power without the aid of any person, by the free choice of the national assembly. They who reach it by the force of arms do not keep it a long time. General Anselme Prophète, here present, made me proposals, under Salnave, tending to place the vessels of the Government at my order. I refused becasue I was the representative of the government of Salnave in Europe. Many would not have acted as I did."

But here is what the President said in this regard:

"I came to power without the assistance of any person by the free choice of the national assembly. Those who arrive to power by the force of arms do not keep it a long time. I would never conspire to become chief of state. General Anselme, here present, knows something of this. He knows what he wrote to me one time, and what I answered him. Proposals were made to me under Salnave tending to place at my order the vessels that the Government had ordered in the United States to combat the insurrection at that time. I refused, being incapable of treason."

Here an explanation is necessary.

General Anselme Prophète when in exile, at New York, after the fall and death of President Salnave, whom he had served with devotion and fidelity, wrote to General Salomon, transmitting to him the grievances of friends who complained that the latter did nothing to alleviate their fate. General Salomon answered to General Anselme Prophète that he had nothing to do for friends, who if they could not oppose the execution of his brother, of his parents, and of his friends, should have protested by their abstention. It is to this that the President of the Republic made allusion in the passage of his discourse concerning General Anselme Prophète, who is an honorable officer and has never betrayed any of the governments in whose service he found him-

self. The offer of the vessels was made at a time when President Salnave was still in power. Therefore it could have no relation to General Anselme, who was at the time in the country.

L'Avenir National on its side, relating a passage of the same discourse concerning General Jeanty, lends to the President the following words:

"They have a project now to have General Jeanty dismissed. I will not do it. Jeanty is with Prudo and Jean Jumeau, the man who renders the greatest service to my Government. It is, thanks to these three generals, that I am able to maintain peace, etc."

His excellency expressed himself thus:

"They want me to dismiss General Jeanty. I will not do it. General Jeanty has my full confidence. Dismiss General Jeanty, what confidence would I inspire to Generals Prudo, Jean Jumeau, Turenne Jn. Gilles, and all my other commandants of arrondissements, who aid me so powerfully and, without exception, maintain order and tranquillity?"

To say differently would be to hurt the feelings gratuitously of the other commandants of arrondissements, who all make the same efforts, showing an equal devotion to maintain and consolidate more and more the public peace. He cited but two or three, because he could not name them all at once. And that is why, assured of the devotion of his lieutenants and of the assistance of all good citizens, the chief of state says, and will not cease repeating, that his government is strong. And so it is really.

[Inclosure 2 in No. 188.—Extract from "L'Courrier d'Haïti."—Translation.]

WHOM DO THEY WANT TO DECEIVE?

In its number of to-day, L'Oeil journal, subventioned by the Government of the Republic of Hayti, strives in an article, grotesque enough, to prove that the 24th and 25th May past there was no movement, there was no disorder—briefly, that there was nothing.

If there was nothing, why was the state of siege proclaimed?

Does not article 187 of the constitution forbid the Government to declare in a state of siege any portion of the territory of the Republic, except in case of civil troubles and that of imminent invasion on the part of a foreign army?

If there was nothing, why has not the executive power, notwithstanding the desire expressed by the chambers and by the independent press, raised that exceptional measure?

Why?

Do they declare a state of siege in Hayti frivolously and when there is nothing?

If there was nothing, why place cannons in the streets? Why 8,000 armed men, with loaded guns, dispersed over the city?

If there was nothing, why for more than ten days respectable people could not close their eyes during the night on account of real howls uttered by the armed posts at the corner of each square?

If there was nothing, why did the eminent men, representative of foreign powers in Hayti, with all haste, have come into the harbor of Port au Prince war vessels to protect their compatriots?

If there was nothing, why these words of the President of the Republic addressed to General Anselme, words that the President begged that general to transmit to the troops:

"I have but praise to address to the army for its conduct during the last events. Every one did his duty, and I am convinced that everybody will do so to the end."

If there was nothing, why did his excellency say, sufficiently loud to be heard by all the assistants, first at the palace, that since they forced him to it, he was going to shoot a heap of people, and afterward, on the sea-side, that there were people tired of living?

If there was nothing, why, then, send off two honorable elects of the people?

When the journal L'Oeil says that it is of their own will that these two honorable citizens have left the sacred territory of their country, it says knowingly the contrary of the truth. The letter of the honorable Senator Légitime proves this in a sufficiently clear manner.

Would to God that on the eve of the bloody events of September (1883) the diplomatic body had acted with the same firmness. What massacres, what crimes, what reprisals without name, would have been avoided; and yet on the eve of incendiary, of pillage, they cry everywhere: There is nothing.

The Courrier d'Haïti maintains its saying.

The firm and categoric attitude, as much on the part of the Government as of the diplomatic body, has prevented a crisis the issue of which at this hour remains still a mystery for everybody.

That that energetic attitude has deranged the little financial combinations of certain ones, destroyed more than one unhealthy hope, is a thing acknowledged.

As for ourselves, we can but thank, and from the depth of our heart, those who have placed the tranquillity of the country, human existence, and their duty above the infamous traffic of money.

G. D. DE THOUARÉ.

No. 636.

Mr. Thompson to Mr. Bayard.

No. 189.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, June 19, 1888. (Received June 26.)

SIR: I have to inform you of the arrival of the French man-of-war *Du Couëdic* on the 9th and her departure on the 13th instant. The French ship of war *Bison* is expected.

H. M. S. *Ready* arrived here the 13th, relieving the *Wrangler*, the latter returning to Jamaica.

I have, etc.,

JOHN E. W. THOMPSON.

No. 637.

Mr. Bayard to Mr. Thompson.

No. 110.] DEPARTMENT OF STATE,
Washington, June 21, 1888.

SIR: I have received your Nos. 181, 185, and 186 (Dip. series), of the 26th ultimo and 6th and 11th instant, in which you narrate the circumstances which led you to telegraph to the Department on the 24th ultimo, your fear that a revolution in Hayti was imminent, and which thus caused the prompt dispatch of the U. S. S. *Yantic* to Port au Prince.

The difficulties to which you advert appear to have grown out of the opposing candidacy of Senator Légitime and Deputy Manigat, supposed aspirants for the presidency; but these gentlemen having voluntarily quitted the island, as reported in your dispatch No. 185, quiet would seem to be assured for the present.

It is observed that in the interview held by yourself and certain of your diplomatic colleagues with President Salomon you report as follows:

> We then proposed to accompany him [Senator Légitime] there [to the palace] and act as bondsmen of his word of honor if he declared that he would not by any method employ means of a revolutionary character or otherwise, to upset, interfere with, or embitter the Government of President Salomon.

While it is always gratifying to see the good offices of representatives of the United States enlisted in behalf of preserving public tranquillity the means thus suggested may perhaps be open to question.

The nature and responsibility of the very comprehensive guaranty offered are not apparent. It is not understood how the diplomatic agent of the United States in Hayti could "act as bondsman" of the word of honor of a native Haytian charged with being concerned in movements to "upset, interfere with, or embitter" the titular Government, or where accountability would have lain had the sweeping terms

of such a guaranty been evaded or not complied with. No responsibility in that case could even remotely have attached to this Government.

But speculation on this point is fortunately set aside by the fact that the offered guaranty was apparently not accepted, being replaced by President Salomon's personal engagement to insure Senator Légitime's safety on his visiting the palace.

I am, etc.,

T. F. BAYARD.

No. 638.

Mr. Thompson to Mr. Bayard.

No. 191.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, July 2, 1888.

SIR: In direct opposition to what he said a few days previously (dispatch No. 188, inclosure No. 2) President Salomon, on the 25th ultimo, accepted the resignation of General Jeanty, commander of the arrondissement of Port au Prince, and appointed in his place General Herard Laforest, who was commander of the place, and who has been succeeded by General Camille Molière. The general of the port has been removed, and General Duplessis appointed to that office.

Tuesday and Wednesday nights passed; a few shots were fired from different parts of the city; on Friday a proclamation was published about the city from the secretary of the interior (copy, with translation, herein inclosed, marked respectively A and B), and since then a remarkable quietness that seems abnormal has settled over the city, interrupted only by occasional stampedes at the market places and on the streets, where reports have been circulated that at a certain hour a movement against the Government was to be made.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 191.—Translation.]

ORDER OF THE DAY.

No. 1965.] PORT AU PRINCE, *June* 29, 1888.

The speculators, who are accustomed to seek their fortune in civil troubles, and who can not resign themselves to gain their living by honest labor, have recommenced, since a few days, their criminal campaign against the public peace. To assist in the success of their absurd propagandas, that have remained without effect up to this moment (thanks to the good sense of the people), but they have conceived to throw uneasiness in the minds of families by the firing of shots at night at intervals in different quarters of the city.

The Government, that has sworn to maintain peace, and which does not know how to back down before its duty, will not hesitate to take all proper measures to foil this infamous calculation and to re-assure the population; but it is strong enough to warn before it strikes.

In consequence, every individual who, under any pretext whatever, fires a shot at night or day in any part whatever of the city shall be immediately arrested and delivered over for judgment to the special military council, and punished with all the rigor with which the law arms the Government for the safeguard of the public order.

The secretary of state, of interior, and the general of police.

M. MONTASSE.

No. 639.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 192.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, July 8, 1888. (Received July 19.)

SIR: During the session of the chamber of deputies, Wednesday, the 4th instant, at noon, fire was set on the upper floor of the building by some one yet unknown, and in a few minutes the chambers were leveled to the ground. A stiff breeze was blowing toward the sea, and the fire continued, consuming, as it went, about one-tenth of the city. The building of the department of the interior on this street, about ten houses from this legation, was totally destroyed, and I accepted much of their archives, at their risk, until the next day. The military department of the place totally destroyed; also the private dwelling of the minister of war, the Protestant Episcopal church and dwelling of the bishop of Hayti, the new law-school building, inaugurated the evening before; the civil court-house, the Government printing-office; in all it is estimated that at least four hundred buildings were consumed by the flames that completely gutted that portion of the city and with all fury were blown towards the sea-shore, directly on the arsenal, causing all to fear that it would blow up; but, fortunately, the street dividing those burning buildings from the arsenal was so wide that by the proper precautions that were taken the fire stopped there, having no further means of sustaining itself.

Yesterday, at 10 o'clock in the morning, fire was set by some one to the private residence of the minister of justice. Again a terrible wind was blowing and the fire, continuing, arrived at one place directly to the sea-shore. Every house in that quarter was totally destroyed and the flames were only arrested by having nothing more to feed upon, after reaching a portion of that part of the city already burned.

The French man-of-war *Bisson* being in the harbor, the French minister had a squad of sailors to come ashore with implements to assist in stopping the progress of the fire, and they certainly worked bravely and by their persistent efforts succeeded in saving several valuable dwellings. I may say that at least one-fifth of the city is now in ruins.

Guards are placed during the day and at night at nearly every corner, and in the middle of the street a post to prevent unknown persons passing without scrutiny.

The French minister has a guard placed at his legation and gave a certain number of sailors to do guard at the British legation. He offered to do the same by this legation, but I assured him with thanks that I felt we could do very well without any such display here.

There have been a few arrests made. Should those arrested be found guilty and be executed, what will be the result? Will their friends take other means to revenge themselves, and thus place in greater jeopardy the lives and property of people? Is not the Government sufficiently strong to take rigid action in the premises? These and many other questions are now agitating the mind of every one.

Speaking with President Salomon yesterday evening, accompanied by the representatives of France and Great Britain, he said to us he had determined to take certain measures which he thought would without doubt re-establish order; that from all the other cities there were reports of peace and quietness, at Port au Prince alone there was dis-

order; he said he knew from facts, now, that some foreigners were pushing on these actions, considering themselves safe; they were conspiring against his Government and public order, but he would expel them from Haytian territory the same as he was forced to leave Kingston, Jamaica, when the Haytian Government then in power charged him with conspiring while living in a country in friendly relations with Hayti.

I think it a necessary measure to request that a war vessel be dispatched at once to this city, as every one is on the *qui vive*, expecting at any moment that some new or more dreadful catastrophe will happen. First, a fire set on the upper floor of the chamber of deputies, which, in consequence of proximity, destroyed the residence of the minister of war; three days later, at the upper part of the house of the minister of justice, and it is rumored that only by vigilant watching has the minister of the interior's private dwelling, situated at the other end of the city, thus far been secured from the work of a political incendiary. At the fire yesterday the smell of petroleum was noticed by all who inspected the disaster.

It is reported that several were caught with proofs in their possession showing their complicity in the events of the past few days; also several others who were found in the act of setting fire will be tried, and, if found guilty, shot to morrow or Tuesday. The President in his public audience to-day said he would now take the severest measures to protect public order.

I have, etc.,

JOHN E. W. THOMPSON.

No. 640.

Mr. Thompson to Mr. Bayard.

[Telegram.]

JAMAICA, *July* 9, 1888. (Received 2.41 p. m.)

STATE DEPARTMENT,
Washington:

Send war vessel. Political incendiarism. Situation critical.

THOMPSON,
Hayti.

No. 641.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 193.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, July 9, 1888. (Received July 19, 1888.)

SIR: Every resident of the city that can is now moving to the country; there is a general panic, and from the alleged stopping of persons accused of throwing quantities of kerosene oil against houses in different localities it has caused the utmost trepidation. The *Atlas* steamer taking this dispatch returns much of the cargo she brought; merchants

and their armed employés patrol the district where their warehouses are situated both night and day. I must close this dispatch in order to have it reach on board before the sailing of the *Atlas*.

I have just been informed by the secretary of state that a man has just been caught in the act of setting fire to a house. He will be executed immediately.

I am, sir, etc.,

JOHN E. W. THOMPSON.

No. 642.

Mr. Bayard to Mr. Thompson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 11, 1888.

REIMER,
Consul, Santiago, Cuba:

Ask courteous transmission following to Thompson, Hayti:

Impracticable this season unless particulars of actual urgency furnished.

BAYARD.

No. 643.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 194.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, July 16, 1888. (Received July 26.)

SIR: Tuesday night, of the 10th instant, the carriage-house of General Brenor Prophète, ex-minister of war and marine, situated almost directly opposite to my residence at Turgeau, was totally destroyed by the work of an incendiary between 11 and 12 o'clock.

The day previous a man named Romulus Romain, alleged to have been caught in the act of putting fire to a building, was arrested by the police, and after an interrogation, shot by the soldiers. It is now said he was an innocent man. The fact is, before any one was even imprisoned since these past fires occurred every one blamed President Salomon as being too lenient; now they blame him for executing the above named, and also for imprisoning those suspected; no matter what he does now, he is harshly criticised.

Two regiments were sent for by the Government from the north, one from Gonaïves and the other from St. Marc, and at this writing are marching through the city to the quarters assigned to them, having arrived by the Haytian corvette *Dessalines*.

The discontented now demand that President Salomon shall revoke his private secretary, who is also secretary to the cabinet; the President accepted General Jeanty's resignation as commander of the arrondissement on demand from certain people, and if he accedes now to the popular demand for the dismissal of his secretary they will certainly clamor for further concessions.

The discourse of the President at his public audience yesterday has been distorted to cause rancor to enter into the hearts of many who have until now remained calm; public opinion here is unfortunately for a change, and, by reports from other cities, I fear, like a malignant disease, dissatisfaction is spreading.

I have, etc.,

JOHN E. W. THOMPSON.

No. 644.

Mr. Bayard to Mr. Thompson.

No. 114.] DEPARTMENT OF STATE,
Washington, July 16, 1888.

SIR: On the 11th instant a telegraphic dispatch was received from you by way of Jamaica, as follows:

JAMAICA, *July* 11, 1888.

STATE DEPARTMENT, *Washington:*
Send war vessel; political incendiarism; situation critical.

THOMPSON, *Hayti.*

This is the third time within a very few months that the situation of affairs in Hayti has been such, in your judgment, as to call for the immediate dispatch of war vessels of the United States to Haytian waters, for the protection of American interests there in the event of anticipated civil disturbance.

On the former occasions it was found conveniently practicable to have certain of our vessels, at the time cruising or preparing to cruise in the West Indies, directed to call at Port au Prince, and both times the apprehended danger has been happily averted by the evident ability of the constituted authorities of Hayti to preserve peace. It is true that your full reports of the occurrences disclosed a very disquieting condition of affairs, which, in the light of past events in the island, might well give rise to alarm, but the event in each case afforded no ground for doubting the competence of the Government to maintain order.

Urgent calls for the presence of foreign war ships in Haytian ports, especially when frequently repeated in times of political excitement, necessarily form a somewhat conspicuous expression of distrust of the local government on the part of the diplomatic representative making such requests, and the prompt resort of naval armaments thither may not unnaturally convey an impression that the envoy's government shares such distrust. It is desirable in the intercourse of independent States that such an impression should not, without grave reason, be suffered to arise.

Moreover, at the present season of the year, when risk of yellow-fever contagion is always imminent in West Indian ports, it is the aim of this Government to employ its vessels in more salubrious service, so that the lives of its officers and men may not be endangered, except in case of absolute need. Such necessity must be thoroughly understood to justify the dispatch of a vessel of the Navy to unhealthy waters in the season of contagion.

For these reasons I have been constrained to answer your telegram

as follows [via Santiago de Cuba, and by the courtesy of the French company having a connecting cable between that port and Hayti]:

REIMER, *Consul, Santiago, Cuba:*

Ask courteous transmission following to Thompson, Hayti:

"Impracticable this season, unless particulars of actual urgency furnished.

BAYARD.

I am, etc.,

T. F. BAYARD.

No. 645.

Mr. Thompson to Mr. Bayard.

No. 196.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, July 21, 1888. (Received August 1.)

SIR: By the arrival of H. M. S. *Wrangler* last evening and H. M. S. *Canada* this morning, we have at present in the harbor three British men-of-war, one French, and one Dutch.

I received this morning from the chief of the station at St. Nicholas Mole a cable dispatch which read as follows:

Impracticable this season, unless particulars of actual urgency furnished. Bayard, Secretary of State, Washington.

Not only our citizens, but even natives and aliens, have expressed to me the hope that one of our ships of war would also come, to show by such presence that no question of autonomy would enter into the difficulties that seem surely to be coming to this island in the near future.

I have, etc.,

JOHN E. W. THOMPSON.

No. 646.

Mr. Bayard to Mr. Thompson.

No. 115.] DEPARTMENT OF STATE,
Washington, July 31, 1888.

SIR: Your No. 194, of the 16th instant, reporting the unsettled condition of affairs at Port au Prince, has been received.

Your strict abstention from interference in the internal affairs of Hayti is approved.

I am, etc.,

T. F. BAYARD.

No. 647.

Mr. Bayard to Mr. Thompson.

No. 119.] DEPARTMENT OF STATE,
Washington, August 2, 1888.

SIR: Your No. 196, of the 21st ultimo, reporting the present condition of affairs at Port au Prince and repeating your request for the presence there of a United States war vessel, has been received.

I inclosed copies of your former dispatches making this request to the Navy Department, and asked whether it would be practicable to carry out your suggestion. I am just informed by that Department, in reply, that it is very reluctant to order a ship of war to Port au Prince during the sickly season unless some absolute necessity requires it, such as an armed uprising or immediate apprehension thereof, which does not appear to be the case at the present moment.

I am, etc.,

T. F. BAYARD.

No. 648.

Mr. Thompson to Mr. Bayard.

[Telegram.]

MOLE ST. NICHOLAS, *August* 10, 1888.

Your 114 urgent. Two immediately. One pass Cape Haytien. Reply. Details 18th instant.

THOMPSON.

No. 649.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 199.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, August 1, 1888. (Received August 24.)

SIR: The Haytian Government, in order to relieve the victims of the late fires, have passed a law contributing $250,000, payable in four installments, to be distributed according to the loss sustained by each sufferer. I inclose herein, with translation, copy of such law, marked, respectively, A and B.

The soap factory (a concession granted to a British subject, but which has been carried on lately under the supervision of Mr. N. B. Walker, a citizen of the United States and attorney for a certain New York firm) having been totally destroyed, Mr. Walker placed a protest in the hands of the British consul-general, who in turn communicated with the Haytian foreign office.

I had a casual glance at the copy held by Mr. Walker of the reply from the minister of foreign affairs, which, one must admit, in a legal point of view, appears worthy of the most serious attention. Of course the protest was but the forerunner of a claim to be made against this Government, and the reply thereto, although it ignored any allusion to the object of the protest in that light, expressed the surprise of the minister at its reception, and also at certain allegations it contained, as if holding the Government responsible for the loss of property, notwithstanding the efforts of the fire brigade, with the assistance of foreigners and every means possible employed to stop the progress of the flames, which spread with surprising rapidity, owing to the wind that was blowing with great violence toward the sea. It further said that Hayti was an independent country, made so by suffering and blood;

that other countries were also harassed some by their commoners, by dynamiters; that a man caught trying to fire a building was immediately taken and shot; it was the work of incendiaries; but during all of that exciting time not a shot was fired against the Government forces; that the Government had through Congress voted a certain amount to be divided among the victims of the disaster, and that the soap factory would be considered exactly as the others, and it appeared to me he meant under no circumstances with any more advantages than the others.

I understand that the representatives of England and France and Spain have informed their compatriots to send to them lists of their losses, preparatory to making claims against the Government. I have particularly abstained from giving any opinion pro or con on the subject of claims in the cases alluded to.

I believe those gentlemen above named hold that the fact of this city being under "martial law" since the 24th of May last renders the authorities liable, no matter by what means a misfortune happened.

I have the honor, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 199.—Translation.]

LAW GIVING ASSISTANCE TO THE VICTIMS OF THE FIRES OF JULY 4 AND 7, 1888.

Salomon, President of Hayti, using the initiative conferred on him by article 79 of the constitution.

Whereas that, in presence of the many unfortunates occasioned by the fires of which the city of Port au Prince has become the theater during the 4th and 7th days of July instant, it is the duty of the Government to lend succor to the victims of that public calamity, as the President of Hayti has, moreover, announced in his proclamation of July 4 instant:

Whereas that to be efficacious the succor should be given in money, on the basis of an equitable repartition and according to the means that the financial situation of the country may offer.

From the advice of the council of the secretaries of state, has proposed, and the legislative body voted, the urgency of the following law:

ART. 1. An extraordinary credit of $250,000, to be raised from the overplus estimated on the custom-house dues, both of importations and exportations, is opened to the Government, to enable it to aid the victims of the fires of July 4 and 7 instant. This credit shall be divided as follows: $50,000 to be deducted from the receipts 1887–'88; $50,000 to be deducted from the receipts 1888–'89; $75,000 to be deducted from the receipts 1889–'90; $75,000 to be deducted from the receipts 1890–'91.

ART. 2. A commission, with the object of putting in execution the present law, shall be appointed by the executive power.

ART. 3. The amount to be distributed under the title of assistance to the victims of the fires of the 4th and 7th of July, 1888, shall be unseizable. In consequence, the creditors of the victims of the two fires can not, from any motive whatever, seize or stop the values that may become due to their debtors from the distribution that shall be made in virtue of this present law.

ART. 4. The proprietors and merchants, victims of the aforementioned fires, shall be exonerated from all license dues and from all house or land taxes from the 1st of October, 1888, up to the 30th of September, 1889.

ART. 5. The present law shall be printed, published, and executed at the diligence of the secretaries of state of the interior and of finances, each in what may concern him.

Given at the house of representatives July 23, 1888, the 85th year of the independence.

The president of the house.

J. C. ANTOINE.

The secretaries.

CL. LAFONTANT,
PAUL MARSAN.

Given at the National House at Port au Prince July 24, 1888, the 85th year of the independence.

The president of the senate.

B. MAIGNAN.

The secretaries.

SAMPSON.
A. V. CABÈCHE.

In the name of the Republic, the President of Hayti orders that the above law of the legislative body be vested with the seal of the Republic, printed, published, and executed.

Given at the National Palace of Port au Prince July 24, 1888, the 85th year of the the independence.

SALOMON.

By the President:
The secretary of state of the interior.

M. MONTASSE.

The secretary ofstate of finance and of commerce.

C. FOUCHARD.

No. 650.

Mr. Adee to Mr. Thompson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 16, 1888.

REIMER,
Consul, Santiago de Cuba:
Cable Thompson vessel sent.

ADEE.

No. 651.

Mr. Bayard to Mr. Thompson.

No. 120.] DEPARTMENT OF STATE,
Washington, August 16, 1888.

SIR: Your telegram of the 10th instant, having been made known to the Naval Department, the Secretary of the Navy has ordered the *Galena* to Haytian waters. I transmit a copy of his letter on the subject.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 120.]

Mr. Whitney to Mr. Bayard.

NAVY DEPARTMENT,
Washington, August 10, 1888. (Received August 14.)

SIR: I have to acknowledge the receipt of your letter of this date with regard to a telegram from the United States minister at Port au Prince, representing the urgent necessity for armed vessels of the United States in Haytian waters.

In reply I have to say that an order has been sent to Rear-Admiral Luce, commanding the North Atlantic Squadron, directing him to send the *Galena* to Cape Haytien

and Port au Prince without delay. Her commanding officer will be instructed to remain in Haytien waters as long as he may think it necessary or advisable, but will be authorized to return north should tranquillity have been restored, as it is not considered wise to unnecessarily retain vessels in that climate at this season.

Very, etc.,

W. C. WHITNEY,
Secretary of the Navy.

No. 652.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 201.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, August 18, 1888. (Received August 25.)

SIR: Various reports having been received from Cape Hayti touching upon revolutionary topics, on Saturday, the 4th instant, General Anselme Prophète, commander of the four corps of the guard stationed at Port au Prince, was sent by the Government on board of the man-of-war *Toussaint l'Ouverture* direct to Cape Hayti. Two hours after his departure an express brought news to the Government that General Séide Thélémaque, commanding the arrondissement of Cape Hayti, and perhaps the most popular general in the Haytian army, was at the head of a movement against the Government. On reception of this news one of Rivière's fast steamers was sent to overtake General Prophète with instructions for him to use every caution and reconnoiter well before entering into the harbor of Cape Hayti. General Prophète went to Port de Paix and found that everything was true concerning the insurrectionary movements under General Thélémaque. From there General Prophète went to Gonaives, gave certain orders, and returned to this city. On the 9th instant I received a dispatch from Consular Agent Dupuy, of Gonaives, copy of which I inclose herein, marked A.

Rivière's steamer that left here Wednesday, the 1st instant, for the north, was taken possession of by the rebels, and it is said armed for warfare.

On Wednesday, the 8th of this month, General Tirésias Sam, minister of war and marine, left here for St. Marc and Gonaives by the war vessel *Toussaint l'Ouverture*, taking with him one battalion of the St. Marc regiment that arrived here the 16th ultimo. Before his departure Mr. Brutus St. Victor called here and requested me to accompany him to the palace, as the President wished to talk with me. I went there with him, and then his excellency requested me to send for two war vessels, as the revolutionary party appeared to be gaining power.

Finding myself asked by the chief of state of the country to which I am accredited to send for war vessels for his dependence morally, if not physically, and knowing that outside of a tropical climate this country is in a perfectly healthy state, I felt the situation such in our relations with a friendly Government as to justify the following cable dispatch, which was taken to the Mole St. Nicholas by the minister of war and marine, and which read:

STATE DEPARTMENT,
Washington:

Your 114. Urgent. Two immediately. One pass Cape Hayti. Reply. Details 18 instant.

THOMPSON.

On Thursday President Salomon again sent for me and informed me that he had made up his mind to quit the presidency.

Friday morning, the 10th instant, occurred the closing event in the presidential career of General Salomon. At 9.20 a. m. a messenger arrived in all haste at this legation requesting me to go immediately to the palace, as President Salomon desired to see me on a matter of the utmost importance. I commenced to prepare myself to answer the request, when a gentleman, Mr. Charles Heraux, rushed into the front office crying out, "Mr. Thompson, Mr. Thompson, they have taken up arms against the Government; for God's sake go to the palace and save the old man's life." Naturally this hurried me. My horse not being in the city and a carriage unable to be found, I immediately started for the palace on foot. I was ushered into the President's presence. He informed me that bad news had come in from the north telling of the success of the insurgents in their march toward Port au Prince, and since our war vessels were not here his intention was to ask the British consul-general to allow him to go aboard H. M. S. *Canada*, in preference to the French vessel, there await an American war vessel or the Dutch steamer for New York on the 18th instant. He then asked me if I would accompany him aboard that night. I put myself at his disposition, and the plan was that Vice-Consul-General Terres and myself were to go to him with two half-closed carriages at the back of the palace grounds, and thus quietly we would be conveyed to the wharf, and he would embark on board the steamer that he would take for the United States, where he intended stopping for a month or so.

During the time that I was there the generals of the arrondissement and Place both arrived before him, explaining that there was a panic in the city.

In returning to this legation I noticed a great amount of commotion, which continued to augment, from the irregular firing of guns at all points of the city; armed companies of men took stations along this street, half hiding themselves behind any available pillars or posts. The arsenal was attacked and resistance made. A little later Mr. Huttinot, employé at the French legation, coming here, informed me that General Herard Laforest, commanding the arrondissement, had joined the revolutionary party. I waited awhile, then descended to the arrondissement, carrying a small flag in my hand, anxious to see if such was a fact; after awhile General Laforest passing, I heard the soldiers crying out, "*Vive la révolution*," "*A bas Salomon*," "*Vive l'arrondissement.*" I rode up to Laforest, and taking him aside from the rabble and confusion, inquired most seriously if his men were with the revolution. He replied, "It seems so, Mr. Minister, and I, alone, am incapable of doing anything." Ex-President Boisrond Canal at that moment was descending the street on horseback and we met him opposite the French legation. General Laforest said: "Let us enter here and see what can be done to change the situation." We entered. The French minister was there, General Laforest, and myself. After discussing the aspect of affairs, General Laforest having said he could keep the soldiers in order for an hour or an hour and a half, but not for two hours, continued, "I propose that Minister Thompson go to the palace, explain to the President my inability to keep order among the soldiers longer than an hour or so, and as they demand that he (the President) leave, it will be best that he do so within an hour, as after that I fear he will run great personal danger." About this time the British consul-general came in and said he would attend to the bringing of boats for the occasion. As there were frequent small skirmishes in the direc-

tion of the palace I knew danger surrounded the enterprise; but without hesitation I accepted, mounted my horse, and started on my mission. When on the rue du Peuple, while in the middle of the block, I found myself between two rival parties, who were blazing away at each other; my horse was almost unmanageable, but I succeeded in turning through an alley that led to another street. Sharpshooters were stationed behind every pillar in the palace grounds, and it was only by waving my flag, while shouting my title at each one, that they refrained from firing upon me. I arrived at the palace. The President informed me he was entirely at my disposition; that his confidence in me was such that if I thought it best he would depart immediately.

I immediately left him, ordered three carriages, and descended by the rue Miracles, where the shots were whistling so rapidly over my head, coming from another street and over some low houses, that I felt obliged to ride into Mr. Metzger's, an American's house, until they ceased. After remaining there a few moments, I again remounted and arrived at the arrondissement. All being ready, a ruse to send a great number of soldiers in other directions than we would take, was made, and the French minister, with the consul-general of Great Britain, the Spanish consul, and myself, rode to the palace, having in front of us, some 10 yards, more or less, a man carrying a large French flag. I carried all the time my small American flag. We descended from the palace, the President leaning on my arm. I placed him in the first carriage, where was also Lafontant, his private secretary, and Madame Salomon. Mounting my horse, I rode on the left side of the carriage. The French minister rode ahead; the Spanish consul, who was a little later joined by General Laforest, rode on the right side of the carriage. Thus we continued to Rivière's wharf, an enormous populace and mob following us, some ready to defend, others anxious to molest. At the wharf, with the President on my right arm, Lafontant on my left, General Laforest on the right of the President, the French minister ahead, the English consul-general behind, we proceeded to the boats that were waiting, having to force our way through an immense crowd, some yelling "*A bas Salomon*," "*Vive la révolution*," and other incendiary cries. They were safely embarked. A squad of British marines probably gave such weight to the occasion that no real effort was made to molest the refugees.

It appears that after arriving on board H. M's. S. *Canada* there were no rooms to put at their disposal; at all events they were conveyed upon a disabled Atlas steamer, the *Alps*, lying in the harbor.

After the departure of the Presidential party for the *Canada*, ex-President Boisrond Canal immediately had published an address to the people and the army, copy of which I inclose with translation, B and C.

The day following, Saturday, I took a boat in order to go aboard the *Alps*, and on arrival an officer informed me that no one could come on board without a permit from the consul-general of Great Britain or the captain of the *Canada*. The ex-President and Madame Salomon came to the side of the ship; he requested me to bring little Ida to him, but conversation was impossible on account of the wind and waves, and was scarcely attempted by either of us.

Obtaining the permit from Mr. Sohrab Sunday morning I took the little girl on board; my reception was so cordial that it became painful when the idea came to my mind under what different circumstances I had always before met those people. Mr. Lafontant came forward and, with tears in his eyes, said before them all, "Mr. Minister, to you I owe my life; I can never repay you, and can never forget your acts of hu-

manity." The President said, "We owe you a debt of gratitude from the heart that must always be warm in your praise, and that will last with life."

Sunday evening, the 12th, the Atlas Steam-ship Company's steamer *Atlas* left here directly for Kingston, Jamaica, to bring Senator Légitime and, I presume, any other of the political refugees there to this city. The ship returned with Légitime about 4 p. m., the 15th instant. An immense crowd was at the "Bureau de Port" to meet him, and the appearance of rejoicing was extreme; shots were fired so that the uninformed thought that it must be an attack on some point or other of the city. Légitime allowed himself to be placed in a carriage and driven through several of the principal streets of the city, hundreds of pedestrians and horsemen following. The city was a perfect bedlam for some hours. One or two men were killed by the carelessness of those using fire-arms and some twenty wounded.

On the 13th instant I received two dispatches from Consul Goutier, at Cape Hayti, copies of which I inclose, marked, respectively, G and H; also copies, with translation, of General Séide Thélémaque's declaration to the people and the army, dated the 5th instant; his proclamation, dated the 7th instant, and several "orders of the day," showing the adhesion of several different arrondissements to the revolution, marked, with translations, respectively, I, J, K, L, M, N, O, P.

The minister of finance is at the British legation; the minister of justice at the French legation with the President's brother-in-law, Emile Pierre, the ex-commander of the place, General Molière, and many others; the minister of the interior at his residence.

The minister of foreign affairs has remained at home in his fire-proof building ever since the departure of the President. The French legation opened its doors freely to any refugees, and there are many. I have invited no one here, but had made a determination that should any find themselves under this roof they would receive the same protection as is offered at other legations.

Sunday night, the 12th, General T. Sam, minister of war, returned from the north, where General Jean Jumeau, having repulsed the insurrectionists, captured stores, and in a battle killed several, and was aiding the Government when the news came of Salomon's abdication. The minister of war immediately went on board the *Toussaint l'Ouverture* and started for this city. General Jumeau had them beat the roll-call, fired the alarm-guns, and proclaimed the revolution triumphant.

I found General Sam in the upper part of this building, over the legation, Monday morning. He asked my protection. I did not put him out. Before coming ashore he went to Her Majesty's ship *Canada*. They said they could not take him aboard without certain formalities; the French war vessel made the same reply. He was landed at a point distant from the wharves and made his way during the night to this building. As I wished to communicate facts to the Department, although it was after 9 o'clock, I succeeded in stopping the *Canada*, and requested Captain Beaumont to deliver a note to our consul at Santiago de Cuba, instructing him to cable immediately on receipt the following:

STATE DEPARTMENT, *Washington:*
Salomon abdicated 10th instant. Anarchy.

THOMPSON.

On the afternoon of the 14th I, in common with all foreign representatives, received a dispatch from General Boisrond Canel, copy inclosed, marked Q, with translation marked R, to which I made reply, inclosure S.

On the evening of the 16th it is reported that the French minister, accompanied by Mr. B. Rivière, a Haytien, went to St. Marc to confer with General Séide Thélémaque and persuade him not to come to Port-au-Prince with his army, but only with the members of the committee from the north.

The report is now that General Thélémaque is expected this evening.

Very respectfully, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 201.—Translation.]

Mr. Dupuy to Mr. Thompson.

CONSULAR AGENCY, *Gonaives, August* 7, 1888.

SIR: Yesterday, about 10 a. m., General Jean Jumeau delivered a speech in which we were informed that the Cape had taken arms and was marching on Gonaives.

Immediately on the conclusion of his speech he ordered the assemblée générale to be sounded, and all available men were drafted into service. Early in the afternoon the general left with his army.

He is said to have marched as far as Biloret (a village a short distance the other side of Plaisance) and to have encountered the insurgents, before whom he fell back on Poteau, a place some 9 miles from here.

The consular agents here have held a meeting, at which it was decided that the situation was sufficiently serious to warrant their asking for a man-of-war to be sent here. With this end in view each consular agent has written to his chief at Port-au-Prince in the hope that some one of them will be able to comply with the request.

I hope to write you more fully on Thursday. Just at this moment I am very much pressed for time, our express leaving immediately.

I am, etc.,

ETHÉART DUPUY,
United States Consular Agent.

[Inclosure 2 in No. 201.—Translation.]

Liberty. Equality. Fraternity.

BOISROND CANAL TO THE PEOPLE AND TO THE ARMY.

HAYTIANS: When, three years after having been called to the first magistrature of the State, I resolved on the morrow of an insurrection over which I had triumphed to descend from power to spare the country from new evils that seemed to menace it, I made to myself the promise to remain one of the supports of the Haytian society, and to defend it if ever it had need of my sword.

To-day, that painful events have unveiled the imminence of the danger, I present myself to accomplish that engagement that I have taken to myself and that I have always considered as sacred.

I have not to retrace the dark years that we have just passed; I have not to show you the hideous spectacle of adventurers greedy after the public fortune and finishing by the aid of unnamable maneuvers in inflicting on the population of Port au Prince catastrophes without precedent. The shame of these last hours you know—that anarchy which ended in a monstrous despotism only but yesterday; only but yesterday it was spread before your eyes.

Therefore, understanding that the Haytian nation was tired of so many ignominies, I come to help break that cruel servitude in which it is crouching to recover its public liberties trodden under foot by Salomon the tyrant.

Faithful to my past, I come to make myself the servant of a revolution that has been for a long time in all hearts.

You know, Haytians, I am not an ambitious one; I am pushed only by the legitimate desire to contribute, in the measure of my action, to the return of concord and to the loyal and regular working of the institutions.

Our motto to all should be union; no more effusion of blood, no more of those hecatombs that only impoverish our country, in depriving it the more often of its best children.

It is for the safeguard of that idea of appeasement that they will proceed presently to the formation of a provisional government, responding to the aspirations of the people. For myself, Haytians, I am not a candidate for the Presidency. When one has known those elevated regions where the confidence of a people places you, when one has had the redoubtable honor of being the first citizen of a nation, the consciousness of the responsibilities of power does not make it again desired.

From the day when the people by the voice of its representatives shall make known its choice we will be happy to remit to that one the power that a necessity of social preservation makes us provisionally the depositors.

In the mean while, with the concourse of all the persons of good will, I swear to safeguard the public interests, and you know I am not a man to perjure myself.

Haytians! Live peace! Live the reign of the laws! Live the union of the Haytian family.

Given at Port au Prince, August 10, 1888, the eighty-fifth year of the Independence.

BOISROND CANAL.

[Inclosure 3 in No. 201.—Translation.]

Mr. Salomon to Mr. Thompson.

ON BOARD THE ALPS,
HARBOR OF PORT AU PRINCE, *August* 11, 1888.

Mr. MINISTER: You have contributed with the dean of the diplomatic corps and the consuls of Spain and England to my embarkation yesterday, for which I am infinitely grateful to all. But it seems to me that since then I, with my wife and my sister, who accompany me, are actual prisoners, *mis au secret*, for in fact no communication with the land, with Port au Prince, where we have left our child Ida, who was to have joined us on board—apart from that, no news from our luggage; so that, since yesterday, we are with the same clothing with which we embarked; clothing soiled, soaked with perspiration. If this is hard for me, a man, it is harder still for ladies. Are we prisoners? I have nothing to do with the news of what is passing on shore; but I need my baggage, I want my child. I embarked suffering; I still suffer; I need the advice of and remedies from my doctor, even that this advice be sent to me open, so that everybody can read it before it reaches me.

If my present position and that in which Madame Salomon is placed is not to end soon, I ask myself, would it not have been better for me to run the risks on shore, in the presidential palace, of the dangers that it was feared threatened me. I prefer death, without phrases, to an agony shared by women who are dear to me. In the name of God, Mr. Minister, make your colleagues well understand that I do not want to know what is going on, what is passing on shore and in the country.

In the mean while my respects, and the salutations of my wife to the Mesdames Thompson; we embrace our little Ida that we long to see again.

Robert Olliver, the attendant of the palace; my servants, Leon, George, and the governess Celine, that I have left with my child, will give you information about my affairs.

Very affectionately,

SALOMON.

[Inclosure 4 in No. 201.]

Mr. Goutier to Mr. Thompson.

CAPE HAYTIEN, *August* 9, 1888.

MY DEAR COMPÈRE: The Haytian steamer *Grande Rivière* arrived here on Friday afternoon at 3 o'clock (the 3d instant) and by 8, same evening, was seized by order of the arrondissement.

Saturday at noon the consular corps was invited to call at the arrondissement at 3. General Séide said that President Salomon had committed so many arbitrary actions, besides allowing the public money to be squandered by his favorites, and his administration is ruinous to the country, consequently his commandants d'arrondissements that are maintaining him in office are likewise responsible for his faults and bad administration; he can no longer continue to serve a chief who, after all his faithful service, sends for him to go to Port au Prince to arrest him; consequently he wished to inform the consuls that he would take up arms against the Government

the next morning (Sunday, 5th instant). That the strictest order would be maintained he gave the assurance.

Sunday, 5th instant, at 6 a. m., in presence of the army, the alarm gun was fired, and the revolution proclaimed amid cries of "*Vive la révolution!*" *A bas Salomon!*" Delegations were sent to different places and Grande Rivière, Au Trou, Fort Liberté, Limbé, as well as St. Fleur Paul, have sent their adhesion to the revolution.

It was said that Jean Jumeau of Gonaïves sent for Séide to confer with him, and Tuesday morning Séide left for Plaisance to meet him. A corps d'armée left Sunday afternoon, another Monday afternoon, and the cavalry with Séide.

As I do not know when the *Du Couëdic* will leave, I must close by saying that order reigns here.

In haste, but truly yours,

(2 p. m.)

S. GOUTIER.

[Inclosure 5 in No. 201.]

Mr. Goutier to Mr. Thompson.

CAPE HAYTIEN, *August* 10, 1888.

MY DEAR COMPÈRE: Au Borgne has joined the revolution, which now counts seven arrondissements in its ranks.

General Séide left Limbé yesterday on his way to Gonaïves. We do not know whether Jean Jumeau has or will accept the revolution. If he does it will be well; if not, Séide has 4,000 men and will give him battle. Here out of 15,000 inhabitants you may count about 500 Salomonists. There has been but very little drawback in this revolutionary movement. The merchants have lent money in furtherance of the movement. The German steamer last Saturday took a large amount of coffee, and all the duties were paid to the revolutionary committee. Monday the *Ozama* arrived from New York and the duties were paid also to the committee. This steamer likewise brings goods, the duties on which will be paid to the committee. No more money will be paid to the bank. They will not take a cent from the bank, and since Friday a guard of fifteen to twenty men are stationed in front of the bank night and day for its protection.

The people here are quite sanguine of success. They feel confident that the south will take up arms next week and that when the different armies will appear near Port au Prince the representatives of foreign powers, in view of the great interests of their countrymen at stake, will bring pressure to bear on the President and make him understand that he has no right to wish to maintain himself even at the risk of destroying a portion of his country and merchandise valued at millions of dollars belonging to foreigners.

The revolutionary committee inclose a package for you, containing acts, etc., by this steamer.

The French war steamer arrived here yesterday morning at 9; the consular agent went on board at 10. At 11.30 he has not returned to inform us whether the steamer would leave the same day or remain until the morrow. I remained until near 1 o'clock; he had not come on shore. I went home; wrote you. I took my letter to the French consular agent; he was not at home. I went to the "port" to get a boat to take my letter on board; the steamer was out of sight! *Politesse français.* I inclose it by this German steamer. Everything is quiet. Were it not for the soldiers and armed men that you meet one would never think that we are in the midst of a formidable revolution.

The papers say that the commander of the *Yantic* found that everything was quiet, perfectly quiet, in Hayti; that it was useless to have deranged him to come here; so quiet that he left immediately; that shows that the *Yantic* knew less than the British of Haytian affairs; as they have always had at least one vessel at Port au Prince.

Ever since that affair in Port au Prince, when you and your colleagues so opportunely interposed between the authorities and Légitime, thereby saving his life and the lives of some others, all those who could read the sign of the times, with the vast conspiracies which were going on throughout the whole country, could not fail to see "*que c'était le commencement de la fin.*"

Yours, truly,

S. GOUTIER.

[Inclosure 6 in No. 201.—Translation.]

DECLARATION TO THE PEOPLE AND THE ARMY.

CITIZENS AND SOLDIERS: At the moment that I free myself from the word that I have given to General Salomon to support his government up to the last limits possible, I feel the need of enlightening the country and my fellow-citizens on the motive of my public conduct.

In accepting to serve the government of General Salomon, I took the solemn engagement to aid him to realize the greatest possible good for the benefit of our dear country. Unfortunately abusing the feeling of military fidelity that caused his lieutenants to close their eyes on many points, to think only of the obligations that they have to maintain him in power, the Chief of State has, to the contrary of his lying programme, but plunged the Republic in an abyss of evils by the corruption of political morals, by the perversion of ideas, and by wasting the public money unheard of in our administrative annals.

Perhaps from the first years of the rule of General Salomon one could feel the ruinous declivity of a political system in which individual liberty has been but a vain word; in which the constitution became as elastic as the caprices of the chief; has never been respected, to such a point that senators and deputies were none the more exempt from the prison than the commonest of citizens. But besides that I have always groaned in my heart of an honest man in seeing the arbitrary proceedings so well calculated to demoralize a people, I have continued to support the government, thinking that, as we had just traversed a period of trouble and of anarchy, we should not draw back before any sacrifice to replace the country on a footing of real and fruitful peace—sole condition of progress for a young state like ours.

It was in the meanwhile that the famous insurrection of 1883 broke out, which was but the crisis of a long agitation. It is needless to say how it was suppressed.

Outside of and unbeknown to the commandants of arrondissements who appear responsible for the situation, the General Salomon entertains a crowd of hidden agents intentionally drawn from the worst classes, and who have more discredit than their immediate chief. It is thus that one could not attempt any enterprise of a certain utility without receiving order to discontinue, under the pretext of making the people dissatisfied, who are represented in the eyes of the despot only by these vile agents.

To fill up the measure, this government, which showed itself so energetic to do evil, seemed to have no power to do good. Nearly the half of the city of Port au Prince, the capital of the Republic, has disappeared in flames. Public edifices of the highest importance, such as the chamber of deputies, the comptroller's office, the civil court, etc., have been burned. Well, no serious inquiry has ever been made, and to crown the scandal with a new crime, they have executed, *without judging*, an unfortunate that all seems to make one think was innocent.

To the eyes of all clear-seeing men the consequences of such a system can not but lead to the loss of our autonomy; for when all social tie is broken, when there is no security either for persons or for property; when the title of foreigner is become an advantage to be envied in one's own country, nothing can further maintain the love of national independence.

An officer of honor can not continue to support an order of affairs so ruinous without violating his conscience as a man and as a citizen, without becoming culpable towards the country in the service of which he should draw his sword in the face of and against all.

It is therefore the sentiment of my duty as a Haytien and patriot that dictated to me what I have done.

In proclaiming the revolution I am guided by no personal feeling. I have given more than forty years of active service to the benefit of my country, either under General Salnave, under General Dominique, under General Boisrond Canal, and under General Salomon even. No one has more right than myself to aspire to the first magistrature of the State.

Nevertheless I love my country too much to place myself on egotistical ground.

The revolution has for its sole object the overthrow of a rule of tyranny and dilapidation.

When the tyrant shall have disappeared from the presidential seat the people will be called to name freely their representatives, who will, in their turn, revise the constitution and name a Chief of State. If the free choice of that assembly calls me to power, I will accept, with the formal engagement to re-establish order in the finances, to raise up again agricultural and industrial labor, and to allow to my fellow-citizens all the liberties necessary the same; if the choice falls on another as worthy of the national confidence, I will be the first to lend him my assistance all the time that the interest of the country and public liberties shall not be in danger.

I loyally declare my opinion and the motives that have led me to raise the revolu-

tionary standard in the noble and valorous city of the cape. I hope that all the true patriots, without mental reservation, will unite with me for the raising up again of our dear country. When the fatherland gasps under a yoke that ruins and debases, it is not permissible for any citizen to remain deaf to its voice.

Cry from one end of the Republic to the other: Down with Genera. Salomon! Down with despotism! Live the institutions! Live liberty! Live progress! Live order!

S. THÉLÉMAQUE,
General-in-Chief of the Revolutionary Army.

Cape Haytien, August 5, 1888, the eighty-fifth year of the Independence.

[Inclosure 7 in No. 201.—Translation.]

Liberty. Equality. Fraternity.

REPUBLIC OF HAYTI.—PROCLAMATION—THE REVOLUTIONARY COMMITTEE OF CAPE HAYTIEN.

FELLOW-CITIZENS: The revolution proclaimed at the cape against the government of General Salomon has gained immediately all the departments of the north.

It will go from triumph to triumph up to the capital.

The hour marked for the fall of the tyrant has sounded, and there is not one single Haytian who can remain deaf to its echo.

Since nine years we have lived under a shameful and debasing rule. After our fathers had accomplished such great deeds to preserve to us a fatherland, where we could live and develop our aptitudes in the shade of liberty; after that we have struggled so much to draw our country from the claws of despotism, a man arose with a mask of hypocrisy, who, by deceiving enemies and friends in a moment of confusion, had himself elected to the first magistrature of the state.

The country, fatigued with sterile movements and unseasonable revolts, was thirsty for peace, and every one, frankly forgetting the past, showed confidence in a chief who, to a reputation of capacity—usurped, it is true—joined a large experience and a long practice in European civilization.

That confidence seemed to be justified by the programme that General Salomon published on taking the reins of government, but it was but a glimmer.

Instead of the fusion that this chief promised to the country in declaring that he belonged to no party, we have seen little by little infused in the Republic a spirit of distrust and of terror, that is the death of all social relation. The moneys of the state, turned aside from their national destination, defrayed the expense of a system of spying carried so far that no citizens had any confidence even in a friend to dare to complain of a situation that made every one groan in silence.

To perpetuate in power and to use it as a master, General Salomon perjured the oath that he had taken to observe faithfully the constitution, already modified to his will, has from his entry in affairs commenced to exercise arbitrary acts, illegal to all liberties. On all points of the Republic peaceful citizens have been uneasy; imprisoned without being judged.

The greater part have groaned for years in the prison cells of Port au Prince, until the time when the good pleasure of the tyrant decided to free them. Deputies, senators even, have been illegally arrested and imprisoned, without other justification than the despotic will of General Salomon.

Never has there been seen more political crimes committed with the power to call the state to reason.

General Salomon, to be able to commit with impunity so many and so flagrant iniquities, has above all used the public revenues, that he has always considered as personal property.

To blind the people he promised to organize a national bank, that he announced as an administrative, economic, and financial panacea.

But that bank, the institution of which might have been seriously useful to the development of the public credit among us, has become purely and simply a house of speculations, becoming to the commerce of the country a disloyal rival, giving to the Government the means of disposing of the public funds with the greatest secrecy, and receiving, without counting the interest and other unknown profits, more than $200,000 per year for the insignificant service of receiving the values that belong to the state and remitting them to the payees.

By the aid of this system the finances of the Republic are conducted with a looseness equaled only by the spirit of prevarication that dominates the administration of General Salomon.

We have seen in the single exercise 1885–1886 unjustified expenses amounting to more than $700,000. It is already notorious that for the exercise 1886–1887 the unjustified expenses amount to $500,000. From the discussions that have recently taken place in the chamber of deputies it appears that more than $700,000 have been drawn out of the public funds without the Government being able to give any explanations of the going out of these large sums.

Let them say, "Fellow-citizens, at what time have we ever seen so scandalous a waste of the people's money?"

Finding himself cramped by the circulation of a metallic currency not easily falsified at will, the General Salomon, who in 1882 had declared that paper money was an evil, did not hesitate before an emission of paper money in 1884 without any serious reason to justify a measure so ruinous to the economic advancement of the country.

Fellow-citizens, while the General Salomon thus dilapidated the public funds—traitorously swallowed up in the coffers of the bank—all the great public services remained suffering.

During more than four years the employés of the Government were not able to obtain their salaries only by a ruinous discount oscillating between 45 and 60 per cent.

The public highways, the keeping in order of which is of capital importance for the development of the public wealth, have been completely abandoned. We have no public edifices, our cities are not cleaned nor lighted, and it is thanks to a clement nature that we have not been poisoned by noxious miasms.

To feel all the blackness of such carelessness, one must know that the government of General Salomon, in augmenting incessantly the customs duties, has arrived at disposing more than six millions of the receipts, while before this the country paid not more than about four millions.

At the sight of all these depredations one would say that Hayti is one of those savage countries where the chief of state is master of property and persons, or of an absolute monarchy where the monarch is all and the people nothing.

We have in fact a Chamber of Deputies and a Senate, but it is but the parody of a parliamentary system. Never has the legislative body put aside a law or a proposition of the Government, however unconstitutional or however ruinous that it might be.

A people reduced to a state of affairs so miserable and who would do nothing to come out of it would be considered as unworthy to be a free nation. Fellow-citizens, in the name of liberty we make a solemn appeal to all our compatriots from one end of the Republic to the other.

After having suffered for a long time, under a despotic and humiliating yoke, we at last reach the day of deliverance. It is in uniting ourselves without rancor, without party spirit, having for sole tie the love of country, that we can arrive at not only overthrowing the tyrant, but again raising our country from the state of moral abasement and material impoverishment where that fatal man of the 23d of October has thrown it.

Remember that next year, 1889, that noble country, France, will celebrate with a splendor without precedence the great centenary of liberty.

The immortal principles of the French revolution, of which the echo of old crossed the ocean to transform our chains in revenging arms, will be applauded, cheered by a hundred million voices everywhere where there lives a people worthy and free. What shame for us if the presence of a cynical, lying old man suffice to curb all heads in shame and humiliation and prevent our loudly proclaiming those regenerating principles that are the beacon of civilization! What irremissible condemnation for the black race!

Arise, then, fellow-citizens! Dilate our hearts and our breasts, too long compressed under the weight of despotism, and let us cry, Down with Salomon. Live the revolution! Live public liberties! Live order! Live union! Live progress and civilization.

Given at the hotel of the committee, at Cape Haytien, this 7th of August, 1888.

MAGNY.
ALEXIS NORD.
MONPOINT, JR.
PIERRE LOUIS NEMOURS, JR.
ALFRED BOX.
J. B. N. DESROCHES.
R. G. AUGUSTIN.
ST. L. HECTOR.
A. FIRMIN.
DEMOSTHENES GENTIL.
J. C. DANIEL.
ST. AMAND BLOT.
ST. MARTIN DUPUY.
CINCINNATUS LECONTE.
FUSCIEN DENIS.
AUGUSTIN GUILLAUME.
A. MENARD.
HYPPOLITE.

[Inclosure 8 in No. 201.]

Mr. Thélémaque to the Haytians.

Liberty. Equality. Fraternity.

REPUBLIC OF HAYTI—SÉIDE THÉLÉMAQUE, GENERAL-IN-CHIEF OF THE REVOLUTIONARY ARMY—ORDER OF THE DAY.

HAYTIANS: Again new progress! General St. Fleur Paul, commandant of the arrondissement of Marmelade, has just given his adhesion to the revolution.

As I have already said to you, we march on from triumph to triumph without firing a gun.

To my patriotic call all the north has with haste answered, because everybody is tired with the despotism of General Salomon.

Haytians, God is with us. Soon we shall be at the gates of the capital. Given at the headquarters of Limbé, August 8, 1888, the eighty-fifth year of the independence.

S. THÉLÉMAQUE.

[Inclosure 9 in No. 201—Translation.]

Liberty. Equality. Fraternity

REPUBLIC OF HAYTI—ORDER OF THE DAY—REVOLUTIONARY COMMITTÉE OF CAPE HAYTIEN—TO THE HAYTIAN PEOPLE.

FELLOW-CITIZENS: Called by General Séide Thélémaque, general-in-chief of the revolutionary army, on the acclamation of the population of this city to form a committee, that is to direct the revolution to its triumph, we have accepted that glorious mission, listening only to our patriotism.

The grievances enumerated in the declaration of General Séide Thélémaque published this afternoon suffice to legitimate a revolution against the Government of General Salomon.

In the name of the country unite yourselves to us, let us form one single body and hasten to deliver our country compromised by the unfortunate and machiavelian administration of the man of October 23d.

From the publication of the present order of the day all valid citizens are invited to assemble armed at the bureau of this place.

Given at the hotel of the committee of Cape Haytien this 5th of August, 1888.

MAGNY.
ALEXIS NORD.
MONPOINT, Jr.
PIERRE NEMOURS, Jr.
ALFRED BOX.
B. N. DESROCHES ROMAIN.
GABRIEL AUGUSTIN.
ANTENOS FIRMIN.
DEMOSTHENES GENTIL.
J. C. DANIEL.
ST. MARTIN DUPUY.
ST. AMAND BLOT.
CINCINNATUS LECONTE.
FUSCIEN DENIS.
AUGUSTIN GUILLAUME.

[Inclosure 10 in No. 201.—Translation.]

Mr. Boisrond Canal to Mr. Thompson.

DEPARTMENT OF STATE, FOREIGN RELATIONS, SECTION NO. ——,
Port au Prince, August 14, 1888.

MR. MINISTER: I have the honor to announce to you that following the events accomplished the 10th of this month the Government of General Salomon has been declared deposed from power.

My fellow-citizens having confided to me the care to maintain order, I think it my duty to make it known to you, and give you the assurance that I will do all to merit this testimony of confidence in guarantieing principally to foreigners the security that is due to them in our country.

Accept, etc.,

BOISROND CANAL.

[Inclosure 11 in No. 201.]

Mr. Thompson to Mr. Boisrond Canal.

No. 226.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, August 15, 1888.

HONORABLE SIR: I have the honor of acknowledging the receipt of your dispatch of yesterday, and beg at the same time to not only felicitate you on the merited confidence placed in you by your countrymen, but also to congratulate them on their choice in reposing the well-being of the capital in your conscientious care.

Accept, etc.,

JOHN E. W. THOMPSON.

No. 653.

Mr. Thompson to Mr Bayard.

[Extract.]

No. 204.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, August 25, 1888. (Received September 20.)

SIR: General Séide Thélémaque, commander-in-chief of the army of the revolution, arrived here the morning of the 23d instant at the head of soldiers from the north to the number of seven or eight thousand. Arriving at Gonaïves the French minister sent word that the "corps diplomatique" wished to confer with the general. An hour was arranged and General Thélémaque with many generals awaited, expecting to receive some important favorable news from such a quarter, probably that he had been proclaimed President. He was astonished to see but one man arrive, who, introducing himself, requested a private interview. This being accorded, he said he had come with a verbal message from Boisrond Canal to advise him (Thélémaque) not to march to this city with his army. He asked, "Why?" "Because a part of the city being burned down, there was no place to lodge the troops, and so many men in the city might lead to sickness." It is said that General Thélémaque expressed his surprise at a foreign representative so interesting himself in Haytian politics. On inquiry he was told there were about five thousand soldiers here; he ended by saying, "Since you came to me with a verbal message from General Boisrond Canal I return by you a verbal reply: tell General Boisrond as there are five thousand soldiers at Port au Prince, I should go there with ten thousand—I will bring my entire army."

Later letters were sent to General Thélémaque by some of his partisans, saying, "If you do not come with your army you had better return to the cape."

A fact that must not be lost sight of is, that there has never been a feeling between the cities of the north and those of the south concerning political honors, and it was the belief here that although General Thélémaque took up arms against the Government, those revolutionists here, since through their action Salomon abdicated, felt themselves the masters of the situation, and proposed rushing their candidate into the executive seat. Thélémaque, quietly waiting until he could consolidate his army and march into the city, frustrated their plans on that score.

Yesterday a provisional government was formed, composed of the following members: Messrs. Boisrond Canal, Séide Thélémaque, Légi-

time, St. Armand, Hyppolite, E. Claude, and C. Archin. The first act of such provisional government was to proclaim the dissolution of the chamber of deputies and the senate. Now the intriguing will commence, and even at this writing dissatisfaction is being openly expressed against some of the members chosen.

Your dispatch No. 120 has been received this morning, and the information that the *Galena* is on her way to Haytian waters is highly appreciated by this legation.

I have, sir, etc.,

JOHN E. W. THOMPSON.

No. 654.

Mr. Bayard to Mr. Thompson.

No. 122.] DEPARTMENT OF STATE,
Washington, August 30, 1888.

SIR: I have to acknowledge the receipt of your No. 199 of 1st instant, in reference to the appropriation of the Haytian Government of $250,000 to relieve the victims of the late fires, and discussing the general responsibility of the Government in this regard. The subject will have due consideration, if any case should be presented for the decision of this Department.

I am, etc.,

T. F. BAYARD.

No. 655.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 205.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, September 5, 1888. (Received September 20.)

SIR: The provisional government has formed a ministry as follows: Boisrond Canal, president; S. Thélémaque, minister of war and navy; C. Archin, minister of the interior; S. U. St. Armand, minister of finance and of commerce; F. D. Légitime, minister of foreign relations and of worship; E. Claude, minister of justice and of public instruction; Hyppolite, minister of agriculture and of the police.

The formation of the provisional ministry is looked upon as indicative of certain success to the northern candidate in the presidential race, as it is said of the six portfolios those of the interior, finance, and agriculture are in favor of Séide Thélémaque as president, while he is in control of the army and navy.

The U. S. S. *Galena*, Commander Chester, arrived here Friday evening, the 31st ultimo.

I have, sir, etc.,

JOHN E. W. THOMPSON.

No. 656.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 206.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, September 6, 1888. (Received September 20.)

SIR: August 29 last I received for my signature a circular dispatch from the French minister, who, as dean of the diplomatic and consular body, constituted himself an authority to write to the provisional government in the name of all foreign representatives at this capital that, having heard there were cases of yellow fever, he wished that the soldiers brought to this city be returned to their homes, as the streets were dirty and so many men present would lead to great danger in case of the fever spreading. Then, in the body of the dispatch, he said words to this effect: If our request to send away the troops is not complied with, we shall be obliged to refuse giving clean bills of health to vessels leaving for foreign countries, which will certainly be detrimental to Hayti in her foreign relations abroad. I refused to sign such document because, in my opinion, it is not an affair of the Government—*vis-a-vis* of bills of health. If yellow fever or any other contagious disease exists to that extent that I can not conscientiously give a clean bill of health, I would never enter into a compact with the Government, saying if they complied with an hygienic idea of mine, then I would in return give clean bills of health even if pestilence existed.

Now, this dispatch, signed by all the foreign representatives but myself, is the talk of the city; they say it is but political capital, a ruse, to insist on the sending away of Thélémaque's army, and thus weaken Thélémaque and strengthen Légitime. It is admitted by all as being simply a political move.

It is known that there were cases of fever brought here by a French sailing vessel from Marseilles, probably yellow fever. Of the eleven cases three died; the rest of the crew are at the French hospital, while the ship has been placed outside of communication in quarantine. The disease has not spread from whence it commenced and the other sufferers appear to be convalescent.

There have been no other cases reported since; in fact, doubt exists as to the nature of the disease.

I have, etc.,

JOHN E. W. THOMPSON.

No. 657.

Mr. Thompson to Mr. Bayard.

No. 207.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, September 5, 1888. (Received September 20.)

SIR: The commander and three officers of the U. S. S. *Galena*, accompanied by myself, paid an official call on the members of the provisional government by appointment at 10 o'clock this morning and were received most cordially. It was the intention of the members of the provisional government to return the call, but as the *Galena* would

leave to-day they found it would be impossible, so sent me a courteous dispatch to that effect.

The *Galena* left about 4 p. m. for Kingston, Jamaica, to coal in order to proceed directly after to New York.

I have, etc.,

JOHN E. W. THOMPSON.

No. 658.

Mr. Thompson to Mr. Bayard.

No. 208.] LEGATION OF THE UNITED STATES,
Port au Prince, September 8, 1888. (Received September 20.)

SIR: On Friday, the 7th instant, I, in common with the other members of the diplomatic and consular corps, received for my signature a circular dispatch from the Count de Sesmaisons, minister of France, and dean of that body, requesting a meeting at his legation the day following to discuss an important question.

The day following, at 10 a. m., the meeting was held, when the French minister read the reply he had received from the provisional government (his dispatch referred to in my No. 206), wherein they said the subject was taken note of, and when they deemed it the necessary time it would be discussed among them. As reported before, the disease was local, and, according to Dr. Contraras, whom the dean had invited to attend our meeting, was in a benign state. Many sanitary features were discussed, and it was decided that, owing to the bad sanitary condition along the wharves, we as consular agents would advise all vessels during the continuation of the present excessive heat to lie further out in the harbor, where they will have more air, and not inhale the miasma arising from the low water along the shore. This will certainly cause them more trouble in discharging their cargoes, but as we feared during this extreme heat that whatever sickness they had might become contagious, for the preservation of life and safety toward those who arrived here well, it would be a precautionary measure and show the provisional government that to avert such danger, even at the inconvenience of our vessels, we were willing to take the initiative by advising captains in order to prevent contagion. I objected that any official communication be addressed to the government dictating in any way the measures to take, but accepted that a delegation be sent them to confer unofficially as to sanitary reforms. This was acceded to by all the members present, and a delegation named consisting of the French minister, the British consul-general, and myself. The members of the provisional government arranged to meet us this morning at 10 o'clock, and we enjoyed a very pleasant call, talked over the situation, and it was agreed that a sanitary commission be formed to keep the streets in better condition, to visit and ameliorate to their utmost any sources of contagion, even should the few cases of fever increase or diminish; in fine, our mission was both successful and accepted as amicable.

Of the cases of fever, it is said three or four were yellow fever imported here. They were isolated, but a form of intermittent fever has been contracted on a couple of vessels—on the American brig *Water Witch*, two cases, one of which is well, the other convalescent. There is no spread of the disease, and with these measures of precaution it is deemed that the city will continue in its normal state of healthfulness.

Owing to all conditions, the consular body consider themselves justified in giving clean bills of health up to the present, but we are watching scrupulously the status of each case of illness, and at the first alarming sign will carry out the duty of warning our respective Governments.

I am, etc.,

JOHN E. W. THOMPSON.

No. 659.

Mr. Bayard to Mr. Thompson.

No. 123.] DEPARTMENT OF STATE,
Washington, September 21, 1888.

SIR: I have received your Nos. 204 and 205 of August 25 last and the 5th instant, relative to the condition of political affairs in Hayti, and am pleased to learn that the course of events, so far as reported, has been peaceable and comparatively orderly.

I am, etc.,

T. F. BAYARD.

No. 660.

Mr. Bayard to Mr. Thompson.

No. 124.] DEPARTMENT OF STATE,
Washington, September 22, 1888.

SIR: I have received your No. 206 of the 6th instant, informing me that the French minister at Port au Prince had written a circular note to the provisional government, which was signed by all the representatives of the foreign Governments, except yourself, asking the government to withdraw the troops from the city on the ground of health, and declaring that, in case of refusal to comply with their request, they would decline to give clean bills of health to vessels sailing for foreign ports.

Your position that, by joining in the protest of the French minister, you would have bound yourself, in the event of compliance with the demand for the removal of the troops, to give clean bills of health in any case, even if pestilence existed, is not well understood, and the soundness of your conclusion in that regard is not apparent. You do not send a copy of the French minister's note, and the Department is unable to decide whether the protest did in terms amount to so extraordinary and irrational a compact. But the Department approves the ground taken by you, that the issuance of clean bills of health must depend on the ascertained healthfulness of the port at the time of a vessel's departure.

If the ascertainment of such a condition is rendered doubtful by the presence of a large body of men, under circumstances peculiarly favorable to the germination of disease at an unhealthy season, and preventing any intelligent or trustworthy investigation of their sanitary condition, you would be entirely justified in withholding a clean bill of health, and in certifying the state of things to the health officers at the

port of the vessel's destination, in order that all proper precaution should be there taken.

The remedy, therefore, is as completely within your reach as if you had signed the protest in question, and you not only reserve a fuller liberty of action in the premises, but also avoid connection with an incident to which a political character appears to have been imputed in some quarters.

Your statement of the introduction of cases of what is supposed to have been yellow fever, by a French sailing vessel from Marseilles, and the precautions adopted in the case, has been communicated to the health officers of the Treasury Department for their information.

I am, etc.,

T. F. BAYARD.

No. 661.

Mr. Bayard to Mr. Thompson.

No. 125.] DEPARTMENT OF STATE,
Washington, September 24, 1888.

SIR: I have received your No. 208 of the 8th instant, in which you report a conference between a delegation of the diplomatic corps, on which you served as a member, and the provisional government, with a view to improving the sanitary condition of the capital.

The Department approves the course pursued by you.

I am, etc.,

T. F. BAYARD.

No. 662.

Mr. Bayard to Mr. Thompson.

No. 126.] DEPARTMENT OF STATE,
Washington, September 24, 1888.

SIR: I inclose for your information copy of a letter from the Secretary of the Navy, inclosing a report made by Commander Chester, of the *Galena*, on Haytian matters; also a copy of my reply to Secretary Whitney's letter.

I am, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 126.]

Mr. Whitney to Mr. Bayard.

NAVY DEPARTMENT,
Washington, September 19, 1888.

SIR: I have the honor to inclose herewith, for the information of the Department of State, a copy of a dispatch, dated the 10th instant, from Commander C. M. Chester, commanding the U. S. S. *Galena*, reporting the result of his recent visit to Port au Prince.

Very respectfully,

W. C. WHITNEY.

[Inclosure 2 in No. 126.]

Commander Chester to Mr. Whitney.

U. S. S. GALENA (3d Rate),
At sea, making passage to New York, September 18, 1888.

SIR: I have the honor to report the result of the recent cruise of the *Galena* to Hayti, in pursuance of the instructions from the rear-admiral commanding naval forces, North Atlantic Station, of August 17 ultimo, as follows:

The *Galena* left Norfolk August 25 and arrived at Port au Prince the 31st ultimo. I immediately put myself in communication with the United States consul-general and minister resident at this port, Mr. J. E. W. Thompson, and through him and other sources learned the condition of affairs on the island. Although the State Department has been given quite a complete record of the disturbances which have recently occurred at Port au Prince, I believe a brief history of them will not be inappropriate for the files of the Navy Department, and therefore present it.

It appears that the late President Salomon through various causes began to lose the power so long and intelligently held by him some time before the disturbance of May 24 ultimo. This rebellion being quelled and the two principal instigators banished (Légitime and Manigat), quiet reigned for some time. On July 4 ultimo a fire broke out in the city of Port au Prince, evidently incendiary in character, and the instigation of it charged by many to the President. Much damage being done, the feeling of rebellion was agumented and it was soon apparent that a crisis was imminent. The President about this time, foreseeing the result, sent for the American minister, who appears to have been on intimate terms with his excellency, told him his fears, and urged him to send for two men-of-war. The result was a cablegram to the State Department, Washington, asking for vessels and stating "situation critical." H. B. M. S. *Canada* and *Wrangler*, as well as two French men-of-war (the *Bisson* and *Du Couedic*), were in port at this time, but the President evidently preferred to rely on the friendship of the United States Government in this emergency. The climax was hastended by reported disturbances in the north, as well as a growing disaffection among the troops of General Hérard Laforest, commanding the arrondissement of Port au Prince.

The representatives of foreign governments were evidently prepared for the decision made known to them by the President of his intention to leave the country. A passage was offered him by the captain of H. B. M. steamer *Canada*, and on the morning of the 10th August he quitely left the palace in company with the several diplomatic and consular representatives and was escorted by General Laforest to the shore and embarked on the *Canada*. I learned his departure was unmolested and occurred with the knowledge of the troops through which he passed. Owing to want of quarters, the President was removed to the British steamer *Atlas*, then lying disabled in the port, until the final departure the morning of the 14th. The *Canada* arrived at Santiago the 15th, with the ex-President on board.

When the condition of affairs was made known, Boisrond Canal, an ex-President of the Republic, quietly took charge of the reins of government, his authority being recognized by common consent. Ex-Senator Légitime was recalled from Jamaica, whither he had been banished by Salomon, and put in nomination for the Presidency by his constituency of the southern portion of the island.

As far as I can learn the only real danger to life or property occurred during the "feu de joie" of the troops on the landing of this exile. Then a grand salute took place from all arms. There being no blank cartridges for the muskets, fixed ammunition was used for an indefinite period, the firing generally taking place in the air. The result can be well imagined. The smallest estimate, I believe, was five killed and twenty-five wounded. Even the men-of-war in the harbor came in for their share of the danger, several shots having struck their decks.

In the mean time a strong rival candidate presented himself for the Presidency in General Séide Thélémaque, the commander of the Army of the North. With his corps of about 8,000 men he marched to Port au Prince and there urged his claims.

The various interests, however, were quickly harmonized into a scheme for a provisional government representing the five districts of the island, with ex-President Canal and M. C. Archin at large.

The seven members were arranged in the following order: B. Canal, President provisional government; S. Thélémaque, war and marine; C. Archin, interior; S. U. St. Armand, finance and commerce; F. D. Légitime, foreign relations and worship; E. Claude, justice and public instruction; General Hyppolite, agriculture and police.

The portfolio slate was published on Monday, the 3d instant, and, through the American minister, I made arrangements to pay my respects to the provisional President. On the 5th instant I was accorded an interview, and, with three other officers

of the *Galena* and the American minister, was received with marked respect by the President and cabinet assembled. The President referred to the pleasant relations which had existed between his Government and that of the United States, and hoped for their continuance. He stated that, owing to maladministration, it became necessary to depose the ex-President, but it had been done quietly and without bloodshed; that the question of a new President and a change in the constitution had been submitted to the people, and an election would take place on October 10; that in the mean time everything was quiet in the Republic, and, he felt assured, would remain so. In reciprocating the kindly sentiments expressed for the United States, I remarked I believed I expressed the sentiments of my Government in congratulating the people of Hayti on the fact that such an important event had occurred without loss of life.

It is believed that had the *Galena* been in the harbor on the 10th of August a request would have been made me to transport the ex-President to Cuba; otherwise than this I doubt if much good would have resulted from her presence. Of course the moral effect of a man-of-war at such times is always advantageous.

The abdication seems to have been a quiet affair, and foreigners had little to fear from any quarter. In fact great deference has been shown foreigners, and I learned of no American citizen whose interests had been seriously threatened.

I was told by the commander of H. B. M. steamer *Ready* that the British and French senior naval officers, in consultation with the diplomats, had decided that only in an extreme emergency should men be landed from their vessels of war, and only then with the smallest force necessary to protect the legations. I am convinced this was a wise policy and a necessary one, sanitarily considered, and I should probably have favored it. The respect for the legations, however, was marked and there appeared no necessity for even this force.

Some uneasiness existed in Port au Prince after the arrival of General Thélémaque with his army, but time and his strong pronunciamento to secure the Presidency by peaceful measures or not at all soon made matters as quiet as they ordinarily are here.

A call for the election of delegates to a national convention was made for the 17th of September. The convention is to meet on October 10 for the election of the President and revision of the constitution. At this latter date it might seem advisable for the United States to be represented by a man-of-war, but I believe that a resort to arms would be such an unpopular move as to prevent trouble at any time, until the history of this island should take its natural course and repeat itself.

Concluding, from the facts presented above, that the proper interpretation of my instructions required me to return north, I left Port au Prince on September 5 for New York, stopping at Port Royal, Jamaica, for coal, from which place we took our departure on the 8th.

The following vessels were in Port au Prince on the 5th: H. B. M. S. *Wrangler*, Spanish gun-boat *Sanchez Barca*, and Haytian gun-boats *Dessalines* and *Toussaint*.

Very respectfully, etc.,

C. M. CHESTER,
Commander, U. S. Navy, Commanding Galena.

[Inclosure 3 in No. 126.]

Mr. Bayard to Mr. Whitney.

DEPARTMENT OF STATE,
Washington, September 24, 1888.

SIR: I have the honor to acknowledge receipt of your letter of the 19th instant, inclosing a report concerning Haytian affairs, made by Commander Chester, of the *Galena*.

This Department is disposed to concur in the suggestion that it may be advisable for the United States to be represented at Port au Prince by a man-of-war on the occasion of the meeting of the constituent assembly October 10, if the exigencies of the naval service will permit this to be done.

I have, etc.,

T. F. BAYARD.

No. 663.

Mr. Rives to Mr. Thompson.

No. 128.] DEPARTMENT OF STATE,
Washington, October 9, 1888.

SIR: The telegram sent by the United States consul at Santiago de Cuba under your direction reads as follows:

SANTIAGO DE CUBA, *October* 2, 1888.

SECRETARY OF STATE,
Washington:

Thompson, minister Hayti, orders to cable you partisans of Télémaque and Légitime in battle from 7.30 p. m. to 6.30 a. m., September 28; Télémaque killed. We fear the north will seek immediate revenge.

REIMER,
Consul.

A copy of this telegram was sent to the Navy Department with a request that, if practicable, a war vessel might be dispatched to Haytian waters.

The Acting Secretary of the Navy has since informed me that he has no vessel at his disposal at the present moment, but that, as soon as practicable, one will be ordered to report at Port au Prince.

I am, etc.,

G. L. RIVES,
Acting Secretary.

No. 664.

Mr. Thompson to Mr. Bayard.

No. 212.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, October 16, 1888. (Received October 26.)

SIR: Nearly every leaf read in Haytian history since the independence of the country is marred by accounts of political strife, where the result has numbered more or less mortality; but never has this history exhibited so baneful a page as that which will recount the causes and effects that must follow the sanguinary conflict of Friday evening, the 28th ultimo, which resulted in the death of General Séide Télémaque and the massacre of many of the bravest men in the Haytian army. On the 17th ultimo commenced the election of constituents from all communes in Hayti, who were to unite at the capital the 10th of this month to elect a President. All other candidates had withdrawn, and there were but two looked upon by the people at large, viz, General Séide Télémaque, of Cape Haytien, and General Denis Légitime, of Jérémie, but a resident of Port au Prince. It appears that on Thursday, the 27th ultimo, news came from different portions of the country that the north, the northwest, and the Artibonite would send a solid delegation in favor of General Séide Télémaque, and that the greater part of the south would be with him. I am informed that already he had the two-third majority which is necessary to elect. This news disconcerted the followers of General Légitime; in fact, it seems that enthusiasm for him was only shown in this city. Since the entry of the army of the north rumors have been abroad that there would be a conflict;

in fact, it was pushed on by many ordinary people who desired nothing better than confusion. General Thélémaque sent away nearly all of the volunteers that came with him, and remained with a small division from Cape Haytien, from Grand Rivière du Nord under General Bottex, from Limbé under General Rosa, from St. Marc under General Prudo, from St. Michel under General St. Fleur Paul, and from Dessalines under General Boisrond, and these divisions were stationed in different portions of the city. His own command he removed from the corner of this street (rue de Centre and rue de Bonnefois) because it appeared there might be some misunderstanding between his officers and those of the "National Guard," stationed very near them. To keep from any collision General Thélémaque took a station on "la Place Pétion," diagonally situated to the Presidential palace. The palace has been ever since the fall of the Salomon Government under the protection of General Anselme Prophète. Although General Thélémaque came into this city followed by an army of nearly ten thousand men, and later took the portfolio of war and navy of the provisional government, so much had the journals teemed with, and the Port au Princiens talked of, this invasion from the north as an attempted menace and furtherance of General Thélémaque's candidature, that he willingly allowed the greater part of his followers to return to their homes. From the time of his arrival in this city and the showing of his conciliatory attitude toward all political parties, with an apparent endeavor to palliate all past wrongs and to consolidate all factions for the good and well-being of the Republic, he gained most wonderfully the esteem of the highest class of society, and they became his strongest partisans. Notwithstanding the daily reports that he would be attacked, and so forth, although minister of war and navy. he made no preparations for defense and held in with an iron will his adherents from making any demonstration or arrangements for an assault. On Friday evening the disastrous affair occurred. Riding to my residence on the 28th ultimo I passed by that of the provisional minister of the interior, Mr. C Archin, and there in his presence met and saluted General Légitime, who, followed by many friends, said he was going to call on General Boisrond-Canal. When he left us the brother-in-law of Mr. Archin requested me to remain at the legation during the night, as he believed in case of trouble my moral influence would count for a great deal. Not believing that the matter was of consequence, I tried to evade his request, when he said:

> Not only as a foreign representative, but as a friend to peace and good order and as our friend I pray you to remain to-night.

I consented then so to do, but felt obliged to go home first, and with such understanding I left them. Arriving at my house I gave the necessary orders for the night and returned toward the city.

I passed the palace and was hailed by sentinels stationed behind its walls, but this being no unusual thing and in a country where at one moment or another military movements are made, I thought nothing of the coincidence. Passing the senate, at the side of which was General Bottex's headquarters, I observed that commander stretched out upon a cot before the door. He was an acquaintance of mine, when senator two years ago, and it was my habit in passing to salute him; it must have been then 7.28 p. m. I stopped, saying in French "Well, general, you are a real military man, I see, quietly reposing before your door." "Oh, Mr. Minister," replied he, "dismount a minute; I am glad to see

you." Wishing to question him about the rumors, I dismounted; a soldier held the bridle of my horse; giving my hand to the general, I said:

Tell me, seriously, do you think there is anything in the reports of a movement to-night?

He answered:

I do not believe there will be anything, but I received orders that if we were attacked we must defend ourselves.

Three shots were then fired. I jumped toward my horse to seize the bridle, but the soldier who had been holding him had let go in order to arrange his rifle. I missed the bridle, and as the three shots were followed by a fusillade, the horse, at liberty and frightened, started off, leaving me helpless at General Bottex's headquarters. There had been a stampede for a few seconds during this irregular but continuous fire, yet above it all could be heard, in a tone low but penetrating, the voice of General Bottex saying: "Courage, mes amis; pas courrir, mes amis." He advised me to enter the house, saying he thought it would be over in a few minutes, and then I could make my way to my office; but in the excitement of the moment I found it impossible to remain under cover, so went outside again, when a couple of wounded were brought there. Having some ideas of surgery, but having no instruments, I devoted myself simply to dressing their wounds. This continued until I heard the order given for all the companies to descend the street. Thinking then, should Bottex in an engagement be driven back to his headquarters and a direct attack be made on him there, that my position would become more dangerous, and seeing a light in the upper part of a house on the side, I made my way in such direction amid bullets whistling and falling like hailstones around, but was fortunate enough to reach there, and after some minutes was enabled to enter. There, under fire from the mitrailleuse of the palace, which commenced its death-dealing and destructive work about 9 p. m., I passed the night. The heavy cannon from "Fort National" was discharged at intervals during the night in the direction of General Thélémaque's headquarters, and did considerable damage to people and places near there.

Early in the morning bands of men crying "Vive Légitime" passed through the streets, and there being apparently a suspension of hostilities I started for the legation, and on the route was informed that General Séide Thélémaque had been killed. The following is the narration of General Thélémaque's death as given me by his friend and private secretary: Friday, in the afternoon, after having made a tour of the city, General Séide Thélémaque entered his quarters, ate a little in company with Generals Jean Jumeau, Jean Gilles, and Mr. Desroches; after this he made a call on General Bottex, followed by several officers of his staff and some volunteers, passed the palace, where the guard turned out giving him the honors due his position; on his return General Boisrond-Canal rode up to him and proposed that he take a turn in the city, but he declined, having recently returned, being fatigued, and his horse being already unsaddled. General Canal expressed his regret and started off in the direction of the division of General Rosa. General Thélémaque went up to his chamber, descended a few moments after; the table was prepared for supper as ordinarily; certain demonstrations of hostility had been made all the afternoon by those at the palace, which caused General Thélémaque to send for General Anselme Prophète three times, but who in turn paid no attention to his request. At 7.30 p. m. exactly, the first shots were fired, which continued all night. About 9 p. m. General Thélémaque came out and approached the palace,

trying to pierce the darkness, in order to perceive the situation of those firing upon him, when the mitrailleuse belched forth a volume of fire and lead; he pressed his hands to his abdomen and said, "Nelson, they have cut through my entrails." He was assisted into the house, where all care was taken of him until they were forced to leave there on account of the terribly destructive fire of the mitrailleuse. He died in Mr. Desroches's arms. I must here remark that it seems a fact that all of Thélémaque's generals charged with divisions turned against him, with the exception of General Bottex, who, with his men, fought all night long and against great odds, being surrounded on all sides. The result of so many slain will re-open that ancient hatred between the North and South of Hayti.

Saturday, the 29th ultimo, I sent via Santiago de Cuba, in care of our consul there, the following cablegram:

STATE DEPARTMENT,
Washington:

Partisans of Thélémaque and Légitime in battle from 7.30 p. m. to 6.30 a. m., 28th instant. Thélémaque killed. We fear immediate vengeance from the Northerners.
THOMPSON.

A great question is made regarding who was the attacking party, who was the attacked; yet every one knows perfectly well, in the first place, it would have been foolhardy for an ordinary military man to take and remain in such a position as Thélémaque had if he would resort to arms. The palace is surrounded by a high stone wall, on top of which are high iron pickets; a piece of cannon would have been necessary to open up an entrance, and Thélémaque had no cannon. Many were killed and a great many badly wounded; there are no reliable statistics. Mr. G. G. Taylor, an American citizen, found himself between the palace and the forces of General St. Fleur Paul; he took refuge in a house, and while standing behind the door hoping for a lull in the firing, a bullet coming from the direction of the palace passed through the door, struck him in the leg, glancing off the tibia bone, and making a severe and painful wound.

The minister of the interior of the provisional government gave his resignation Monday, October 1, and notwithstanding the entreaties of the other members he maintained it, for a general amnesty was proclaimed by the members of the provisional government on Saturday, the 29th ultimo, but on Monday, the 1st instant, armed parties went around paying up old political and personal grudges, and several people were murdered and others forced to flee to legations and consulates to save their lives.

The minister of agriculture and police, General Hyppolite, a citizen of Cape Haytien and intimate friend of the deceased Thélémaque, remained in office until he could distribute permits of departure to as many of the Northerners as possible; then he quietly went on board the German steamer as if to see his nephew off for the cape, wrote his resignation and sent it ashore.

We are in a most dreadful state of anarchy, and at any moment the situation may become as a reign of terror. To-day, in Hayti, particularly in Port au Prince, is likened to France in 1789. Already dissensions are talked of between Boisrond Canal, Légitime, and Anselme Prophète. The North has sent a proclamation laying the death of Thélémaque and his followers to the personal account of Légitime.

The afternoon before the battle Légitime sent his family from his house, closed it, and went to the office of arrondissement, where he spent the night.

Saturday after the disaster the French minister, in company with the British consul-general, called upon General Légitime, and it is reported that they congratulated him on his success.

It is reported that from Cape Haytien, the northwest, the Artibonite to Gonaïves have taken up arms, it is presumed, with the intention of marching on to Port au Prince. October 4, news came from Jacmel that one named Merisier, with a band of mountaineers, drove away the generals of the arrondissement and place, who took refuge in consulates. Merisier and his men proclaimed themselves in revolution against those remaining in the provisional government. Daily one is affrighted by narratives of some homicide or other atrocity, and accidents causing death are of daily occurrence. No life is without great danger in the city or near the city limits. No one can foresee when this terrible state of affairs will cease. Everybody is anxious, and many have left here, while others have sent their families to the neighboring islands so as to be in places of security.

On the evening of the 11th instant the Haytian man-of-war *Toussaint l'Ouverture* left this port for Gonaïves and St. Marc, taking soldiers and volunteers on board, also General Jean Jumeau, ex-commander of the arrondissement of Gonaïves, and General Prudo, who had been governor of St. Marc; there were rumors concerning the latter city also, which they consider the key to the north, the northwest, and the Artibonite, being in arms against the provisional government. On the vessel arriving at St. Marc the people on shore fired the alarm, gave adhesion to the revolution proclaimed at Cape Haytien, and when those on board the war vessel attempted to disembark they were chased back with cries "à bas les Port au Princiens." The vessels returned here, and during the night of the 13th a dispatch was sent me to Vice-Consul General Terres, from the foreign office, which I did not receive until the following morning, Sunday; copy of such dispatch I herein inclose marked with translation A and B, respectively. You will observe therein that the intentional departure of these two war vessels was to bombard Gonaïves and St. Marc.

On the 16th instant I received a dispatch from the Haytian foreign office informing me that the cities of Cape Haytien, Gonaïves, and St. Marc had been placed in a state of blockade; inclose copy with translation of such dispatch marked, respectively, D and E, also my reply, wherein I accept such information, but with all reserve as to the detriment of United States citizens by such measures being taken, marked F.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 212.]

Mr. Légitime to Mr. Thompson.

DEPARTMENT OF STATE OF FOREIGN RELATIONS, SECTION NO. ——,
Port au Prince, October 13, 1888.

Mr. MINISTER: I have the honor to bring to your knowledge that on account of the recent taking up of arms that has taken place at St. Marc and at Gonaïves, the provisional government has judged it indispensable to authorize the bombardment of those two rebel cities.

I beg you, in consequence, to have the kindness to take the necessary measures for the preservation of your fellow-citizens from the evils that may result from this urgent decision.

The two ships of war of the Government will leave forthwith this night.

Accept, etc.,

F. D. LÉGITIME.

[Inclosure 2 in No. 212.]

Mr. Thompson to Mr. Légitime.

No. 71.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, October 15, 1888.

Mr. MINISTER: The undersigned, minister resident of the United States, has the honor to inform you that he received yesterday morning, the 14th instant, a dispatch from you dated the day previous, and informing him that the two vessels of war of the Government would leave (the night of the 13th) for the purpose of bombarding the two cities, Gonaïves and St. Marc.

The undersigned begs most respectfully to call the following facts to the attention of the honorable minister:

(1) Having received the dispatch above named at such time above mentioned, there was no means of this legation notifying either the United States consular agent at those ports or the citizens of the United States residing or stopping there.

(2) The hope must be expressed that, if this order is to be strictly carried out, the non-combatants, women and children, of all nationalities, may be given sufficient time by the commanders of the war vessels to remove before the bombardment takes place.

(3) With all due respect, this legation feels compelled to protest against such severe measures being taken immediately and before due notice can be given to the United States citizens there, considering their safety in common with other non-combatants of paramount importance.

I am, etc.,

JOHN E. W. THOMPSON.

[Inclosure 3 in No. 212.—Translation.]

Mr. Légitime to Mr. Thompson.

DEPARTMENT OF STATE OF FOREIGN RELATIONS, SECTION NO. 16,
Port au Prince, October 16, 1888.

Mr. MINISTER: I have the honor to bring to your knowledge that, by the decree of date of yesterday of the provisional government, the ports of Cape Haytien, of Gonaïves, and of St. Marc have been declared in a state of blockade.

Please accept, Mr. Minister, the assurances of my high consideration.

The member of the provisional government charged with the department of foreign relations.

F. D. LÉGITIME.

[Inclosure 4 in No. 212.]

Mr. Thompson to Mr. Légitime.

No. 72.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, October 16, 1888.

Mr. MINISTER: The undersigned has the honor, reserving all the rights in the premises pertaining to any citizens of the United States residing or stopping in the cities of Cape Haytien, Gonaïves, or St. Marc, or being in either of the above-named ports, to acknowledge the receipt of your dispatch of this date, wherein I am informed of the blockade of such ports by order of the members of the provisional government.

Renewing to you, etc.,

JOHN E. W. THOMPSON.

[Inclosure 5 in No. 212.—Translation.]

PROTESTATION.

HAYTIENS: Some men, whose public conscience resents the tendencies, have endeavored to reach, during the night of the 28th to 29th of last September, against the revolution, which is the work of us all, and which is being pursued for the definite triumph of the sense of order, justice, and liberty.

In the actuality, I thought that I needed not to write to give a new confirmation to the principles that I have constantly upheld and practiced. Disposed to draw from the last events some useful lesson for the future, I have decided not to comment publicly; but unjustly attacked by disloyal adversaries, I prepare my defense for history. In an odious proclamation of an unexpected committee which has established itself at Cape Haytien, the events of the 28th of September have been ignominiously misinterpreted. An egregious piece of ill-faith wishes to make of me and of the population of Port au Prince the assassins of General Séide Thélémaque. I energetically protest against that audacious and abominable assertion, as I have protested all my life against the policy of *coup d'état*. General Séide Thélémaque is the victim of his own temerity, and of the interested excitation of his partisans, impatient to seize the power by physical force derogatory to national sovereignty. This is the truth, such as it is seen in the depositions of the chiefs of divisions of the unfortunate reactionist.

They are alarmed at the cape. Is it sincerely through sorrow for General Séide's death, or through regret for the money they have foolishly spent in favor of his candidacy?

Citizens, those are calumniators unworthy to bear the title of patriots who try to impose themselves upon you and to sacrifice the country to their impudent egotism.

When will they cease to make of you a herd that the ambitious ones can lead after them? When will they cease to deceive you? Yes, I protest in your name, in the name of the country, against this indignity. To-day you ought to be only free men.

Ought I to be responsible, I, of the doings or of the consequence of the doings that I condemn?

In politics my hand is unblemished. The country has not to ask me account of her misfortunes. Few Haytiens, I believe, have the right to say as much as myself. It can not then belong to any faction to request that I should be laid aside. I am in my right; I stay there.

Haytiens, you will stop your ears against all the lying and calculated charges. You will understand that it is time that they think of the general interests of the country, and that it is time that the country be heard. You will understand that the nation is tired out and can not bear any longer new commotions without running the risk of irretrievable anarchy and of complete disorganization.

Listen to the patriotic advice and the exhortation of all those that think of the future of our race.

F. D. LÉGITIME.

OCTOBER 5, 1888.

No. 665.

Mr. Thompson to Mr. Bayard.

No. 213.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, October 17, 1888. (Received October 26.)

SIR: I have just received from General Légitime a private letter informing me that by a decree of the national assembly of constituents yesterday, the 16th instant, he has been elected "chief of the executive power." Of the eighty-four constituents representing all parts of Hayti there were but thirty-three that have remained on arriving at the capital, since the affair of the 28th ultimo. I inclose herein copy of the decree with translation marked, respectively, A and B. It is to be observed that the second article expresses the object of the provisional executive powers, in view of national defense. This act of yesterday will be as fuel to the fire of rage that those in the north have for General Légitime, whose candidature, since the death of General Thélémaque, they have openly protested against, in order, they affirm, to prevent civil war. War is inevitable; already the frontier of St. Marc is guarded by troops from the north, and the chief of the "executive power" will in all probability attempt to subdue them. Vengeance is the cry of the north. The future is indeed gloomy.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 213.—Translation.]

Liberty. Equality. Fraternity.

REPUBLIC OF HAYTI.—DECREE.

The National Constituent Assembly.

In view of the deposit by the Provisional Government of the power with which it had been invested;

Considering that the gravity and the necessity of repressing as soon as possible the criminal insurrection of the cities of the north and of the Artibonite, command urgent measures, that may satisfy the public opinion and answer to the expectation of the nation;

Considering that the circumstances exact a new organization of the Provisional Government,

DECREE.

ART. 1. The constituent assembly retakes the full powers that have been confided to the Provisional Government of the Republic.

ART. 2. The executive power is delegated provisionally, in view of national defense, to General F. D. Légitime, who shall act under the control of the constituent assembly in surrounding himself with a council of five members of his choice, for the regular service of the divers ministerial departments.

ART. 3. The present decree shall be published and executed in the whole extent of the Republic.

Given at the National House at Port au Prince, October 16, 1888, the eighty-fifth year of Independence.

The president of the assembly, Clérie; the secretaries, Jérémie, G. Labastille.

No. 666.

Mr. Thompson to Mr. Bayard.

No. 214.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, October 18, 1888. (Received October 26.)

SIR: Referring to my No. 212, of the 16th instant, I inclose herein, marked A, with translation B, the copy of a deposition, as published in the Trait d'Union of the 8th instant, and treating of the question of attempted bribery as charged to the French representative in Hayti.

By publications of this kind you will observe already a foundation for the fears I expressed in my former dispatch of the compromising action displayed by my colleague, which may tend to make the diplomatic body as a whole lose prestige.

As dean of the diplomatic body, although not acting in concord with all the others, this must cast a certain amount of odium on the rest, and in such a country as Hayti, where hatred once enters into the hearts of the people, you can not tell how far they may go to demonstrate it. This matter is occupying the serious attention of all foreigners.

I am, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 214.—Translation.]

To-day, the 6th of October, 1888, at 11 o'clock in the morning, in the presence of Messrs. Blanchard Célestin, Normil Barbos, and Nemours Débrosse, living and residing at Gonaïves, present in the office of the arrondissement of that city, the citizen Jean Baptiste Nelson Desroches met Sublieutenant Assistant Instructor Navarès Klain, of the Fourth Regiment of Artillery, who was in Port au Prince in the army of

General Séide Thélémaque. Mr. Desroches asked Lieut. Navarès Klain "What took place between you and the minister of France, the Comte de Sesmaisons?"

Lieut. Navarès Klain answered in the presence of all those present:

General Jean Jumeau came in the office of the arrondissement of Port au Prince, where I was, and said to me, "There are some foreigners who are coming in to talk with you." Half an hour later I saw the Comte de Sesmaisons, Mr. Solon Menos, and several others come in. General Hérard Laforest was there.

General Jean Jumeau declared in my presence that General Séide had distributed ammunition to the soldiers in the afternoon and had himself led the Thirtieth Regiment to attack the palace. I denied that assertion in the presence of General Jean Jumeau.

For my part, when I was questioned by those gentlemen, I said to General Jean Jumeau himself that I found it incomprehensible that General Séide could have caused a distribution of ammunition to the soldiers without my knowing it, and that I could appeal to him that I never made a step away from General Séide since his arrival at Port au Prince, and that if General Séide had made this distribution of ammunition I would have received my share, and that what proved that this assertion was false was that I received none.

General Jean Jumeau declared, speaking to the Comte de Sesmaisons personally, that it was General Séide who urged the Thirtieth Regiment to give the first assault on the palace. I declared such an assertion to be a lie in his face.

Some minutes after, General Jean Jumeau arose and called the Comte de Sesmaisons by a sign, and told him to call me in order to talk with me.

The Comte de Sesmaisons and General Jean Jumeau were coming back to their seats when the Comte de Sesmaisons patted me on the shoulder and led me to a corner where he said to me:

"According to what General Jean Jumeau has told me you are a young man who can furnish us with good information, but I am speaking to you strictly in private. I offer you $1,000, $500 in American gold and the rest in silver and paper money, for your expenses." I answered to the Comte de Sesmaisons that I could not do that. Then he said that this was for the purpose of my writing with my own hand a declaration tending to show that it was General Séide Thélémaque himself who had distributed ammunition and ordered to attack the palace, and furthermore that he left me to fix the amount. I wanted to write that declaration with my own hand.

Being unable to obtain anything from me he withdrew and joined his companions.

After this declaration the present deposition was drawn up and signed by the witnesses, Mr. Desroches and the Sublieutenant Navarès Klain, the day, month, and year above, to serve as need may be.

NAVARÈS KLAIN.
J. B. N. DESROCHES.
NORMIL BARBOS.
B. CÉLESTIN.
N. DÉBROSSE.

No. 667.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 217.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, October 29, 1888. (Received November 7.)

SIR: Late Sunday afternoon, the 21st instant, I received a note from Mr. J. D. Metzger, agent of the Diamond Mail Line of steamers, informing me that the steamer *Haytian Republic* had been seized by the Haytian war vessel *Dessalines*, and brought into this harbor, and that my presence at the port office was absolutely necessary. I immediately went down to the city and observed at the port office a great quantity of men and considerable confusion. In the office I found Mr. Smith, first officer of the *Haytian Republic*, whom they seemed to regard as a prisoner. After questioning him I thought it advisable to go on board, but was informed by the captain of the port that no one could visit the ship without a permit from the acting minister of foreign af-

fairs. It was then growing dark; and noticing the excitement of the common people around there, I determined to call upon General Légitime and request him to allow the first officer to return on board as a measure for his personal safety. I found General Légitime with his counselors, made my request, which was granted, and then I refused to have anything whatever to say about the affair that evening. The next morning, Monday, I received a dispatch from Mr. Piquant, acting minister of foreign affairs, copy inclosed herein. In reply to such I sent the inclosed reply.

General Anselme Prophète, in charge of the portfolio of war and navy, called upon me the same morning and appeared to be anxious to arrange the matter; "any friendly arrangement," said he. I could give him no satisfaction, not yet having visited the ship. About noon went on board, examined the ship's papers, and the following is Captain Compton's narrative of the affair, as taken directly from his statement:

Left Jacmel October 19 and arrived at St. Marc on the 20th at 5.30 p. m.; when entering the harbor we sighted a steamer to the northwest, 7 miles distance, but were unable to make her out; took pilot on board and came to anchor; pilot informed us that the steamer outside was a Haytian gun-boat trying to blockade the harbor.

Saw the American consul, and he informed me that he had received letters from the American minister at Port au Prince in which there was no mention of any blockade at St. Marc.

Left St. Marc at daylight, October 21, with the American flag flying, and when out clear of the buoy we were stopped by the gun-boat, and the commander ordered me on board. I refused to leave my ship, and sent my first officer on board with my passenger-list and declaration of the steamer's destination.

The commander kept my first officer a prisoner on board and sent a boat-load of armed men to take charge. I let two men on board, but refused to allow the others to board. The commander ordered me to proceed to Port au Prince, which we did under protest.

We arrived at Port au Prince at 2.30 p. m., and came to anchor in the outer harbor; at 6.30 the commander of the port sent a verbal message to us to take my ship to the inside harbor, which I refused to do, not having seen the American minister.

The commander of the gun-boat came on board and wished me to go on shore, but I refused to go, unless by force, until I had seen the American minister; he then took my first officer on shore, and returned at 9 p. m. with my first officer and a detachment of soldiers, who have taken charge of my ship.

I now protest and deny the right of the Haytian gun-boat to detain my ship from proceeding on her voyage, as I knew nothing of any blockade at Haytian ports, and I consider it an insult to the American flag, and will so represent it to the United States through the American minister.

The notification of the blockade was made the 16th instant, and from that time I had no means of communication with our agent in the north.

There being ten passengers on board and four of them constituents going to join the others in the north, the authorities here wished to have them brought to the shore, but I protested against such action, declaring that their persons were guarantied by the flag covering the vessel, even more so, as passengers, than the crew of such vessel. Had they been brought to shore at that time, undoubtedly their lives would have been forfeited.

General Prophète, returning in the afternoon, had an entirely different attitude than in the morning, and nothing could be done. The following day the three counselors present at the capitol called upon me with an idea of arranging the matter. I was conciliant and asked but three things:

(1) That the passengers be permitted to continue their voyage to a port not under blockade.

(2) That the United States flag receive a salute of twenty-one guns for the insults received.

(3) That an indemnity, the amount to be settled between the authorities and myself, be granted the ship at a certain rate each day of detention.

The gentlemen appeared to have a certain belief in their culpability, and anxiety to avert any trouble between the United States and Hayti; but later they sent to me the chargé of finance and commerce, who wished to argue about the first and second stipulations made by me; wished the four constituents landed to remain under my protection, etc.; could not comprehend the insult to our flag; feared it would look like humiliating themselves to salute.

I made no argument with him, but remained firm in my convictions.

To show exactly the situation of to-day it must be explained that Hayti is divided into five departments, the North, the Northwest, the Artibonite, the West, and the South. Now, the three first-named departments are entirely against Légitime, and demand that he retire as candidate and protest against his election as "Chef du Pouvoir Executif" by the minority of the constituents of the country. Of the West, Port au Prince appears to be Légitime's stronghold, yet they are at this moment conspiring against him, which is taking rapid progress; at Jacmel, also in the West, they have declared against him and have taken up arms to that effect, the two constituents of Jacmel, the one of Bainet being on board of the *Haytien Republic*. In the South the principal city, Aux Cayes, is said to be simply waiting for the word. Hence it can be easily seen that almost the entire country is against Légitime, and even had he the departments of the West and South solid in his favor the majority of the departments would be against him.

This country is now in a state of anarchy. They had lately a defective provisional government, which was in charge of affairs when the few constituents elected General Légitime as "Chef du Pouvoir Exécutif." There were of the eighty-four constituents eighty-four elected to represent to all parts of Hayti, to form a new constitution, and elect a President. Now, the North, Northwest, and Artibonite alone have forty-three constituents, and by the blank votes cast it appears now that there were but twenty-seven of the thirty-three present that voted for Légitime. Hence a small minority is attempting to represent the whole people.

Since the seizure of the steamer *Haytien Republic*, in a printed sheet published by an unknown committee, it has greatly commented upon us Americans and tried to show us up in a very bad light. Hence our citizens have become alarmed, and, owing to the condition of affairs, are anxious to see at least one of our war vessels. I am afraid for the lives of those Haytians under our protection in the steamer, to say nothing of our own lives; and, as above remarked, the desperate position in which those in this city are placed is such that any extravagance, if they find themselves cornered, may be feared.

I send to-day, by way of Kingston, Jamaica, the following cablegram in care of the United States consul, advising him to send such dispatch in cipher, if possible:

STATE DEPARTMENT,
Washington, D. C.:

American steamer and schooner seized by Haytian war vessels; flag insulted; life and property in danger. War vessel necessary immediately.

THOMPSON.

I received word from Captain Compton on the 25th instant that he was ordered to bring his ship, which was in the outer harbor, into the inner harbor within an hour, or the authorities themselves would bring

her in. On account of the outer harbor being the more healthy place, I addressed a note to the chargé of foreign affairs (inclosure 3), but not even has its reception been acknowledged, and the same evening they sent aboard and took out certain portions of the ship's machinery, which is deposited at the post-office. Saturday the ship was hauled into the inner harbor.

The blockade established is not effective. Consequently in law it is null, because there were three cities blockaded —Cape Haytien, Gonaïves, and St. Marc—and but two vessels to make such blockade, and I take into consideration that on the 19th instant I received a dispatch from the chargé of foreign affairs stating that, notwithstanding the notification of the blockade given the foreign representatives at this city on the 16th instant, on the 17th instant the steamer *Haytian Republic* made a voyage from Gonaïves to St. Marc. In my reply I said succinctly that certainly I could not enter into the question of the blockade being efficient, since he said in his dispatch that the steamer *Haytian Republic* continued her regular trips from Gonaïves to St. Marc.

On Monday, the 22d instant, both of the Haytian war vessels were in this harbor. What vessels, then, were making the blockade? Saturday, the 27th instant, the German steamer, direct from Cape Haytien, arrived at Port au Prince. No vessel stopped her on her way. Hence there is no serious blockade.

Sunday, the 28th instant, the Mole St. Nicholas, Port de Paix, and Jacmel, by a decree, were put under blockade.

We have in the harbor the French war vessel *Bisson*.

The Haytian war vessel *Toussaint L'Ouverture* brought in here Sunday evening, the 21st instant, the American schooner *William Jones*. The *William Jones* was bound for Gonaïves, having left Boston October 3. When off Gonaïves she was spoken by the Haytian war vessel *Toussaint L'Ouverture* and told to proceed to Port au Prince, as Gonaïves was under blockade. The captain immediately shaped his course for this port, but later the vessel was taken in tow, soldiers put on board while at sea, and at this writing are in charge of the vessel, which has a perishable cargo.

In the name of all our citizens I pray you to insist upon the Secretary of the Navy sending us a vessel of war.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 217.]

Mr. Piquant to Mr. Thompson.

[Translation.]

DEPARTMENT OF STATE OF FOREIGN RELATIONS, SECTION NO. ——,
Port au Prince, October 22, 1888.

MR. MINISTER: I have the honor to inform you that the steamer *Haytian Republic* having been captured for having forced the blockade before St. Marc, a tribunal has been formed so that the affair be submitted to its appreciation.

I hasten to give you notice in the mean time, that it be permitted me to submit to you the verdict of that tribunal in the circumstance.

Please accept, etc.

The counselor of the interior, charged per interim with the department of state of foreign relations,

O. PIQUANT.

[Inclosure 2 in No. 217.]

Mr. Thompson to Mr. Piquant.

No. 80.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, October 22, 1888.

SIR: I am in receipt of your dispatch of this date informing me that the steamer *Haytian Republic* "having been captured for having forced the blockade before St. Marc, a tribunal has been formed so that the affair be submitted to its appreciation." The object of such an act and the validity thereof I ignore completely, reserving all rights in the premises to the protection of such vessel and all on board.

Saluting you, etc.,

JOHN E. W. THOMPSON.

[Inclosure 3 in No. 217.]

Mr. Thompson to Mr. Piquant.

No. 83.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, October 25, 1888.

SIR: I have just received notice from Captain Compton, of the steamer *Haytian Republic*, that he is ordered to bring his ship into the inner harbor. I pray you, sir, to have that order remanded until I can have the honor of waiting upon you, which I will do at any hour you name. In the mean time I am willing to give my parol that such ship will not attempt to leave this harbor until the authorities of Port au Prince consent that she shall leave.

Accept, etc.,

JOHN E. W. THOMPSON.

No. 668.

Mr. Bayard to Mr. Thompson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 29, 1888.

THOMPSON, *Minister, Port au Prince:*

Protest instantly against action of Haytian authorities. Man-of-war ordered.

BAYARD.

No. 669.

Mr. Rives to Mr. Thompson.

No. 56.] DEPARTMENT OF STATE,
Washington, October 31, 1888.

SIR: As you will perceive by the inclosed copy of correspondence I had with Mr. Goutier, consul at Cape Haytien, the Department has been constrained to correct his recent repetition of the error into which he fell, in October, 1885, of announcing to the consular agents within his jurisdiction that "the United States Government does not recognize the right of asylum in consulates for political refugees."

I am, etc.,

G. L. RIVES,
Assistant Secretary.

[Inclosure 1 in No. 56.]

Mr. Goutier to Mr. Rives.

No. 912.] CONSULATE OF THE UNITED STATES,
Cape Haytien, October 8, 1888. (Received October 26.)

SIR: I deemed it prudent, at the outset of this revolution, to caution our consular agents at Gonaïves and Port de Paix, against receiving refugees in their consular agencies, and I inclose No. 1, a copy of my letter to Mr. Ethéart Dupuy, on that subject.

The people here have protested against the provisional government, and are preparing for secession and civil war, should General Légitime remain a candidate for the Presidency.

I have been doing all that I can to bring about a better feeling, but to no avail. As a last resource, I have just written to our minister, Dr. Thompson, and inclose No. 2, a copy of my letter.

I am, sir, etc.,

STANISLAS GOUTIER,
United States Consul.

[Inclosure 2 in No. 56.]

Mr. Goutier to Mr. Dupuy.

No. 547.] CONSULATE OF THE UNITED STATES,
Cape Haytien, August 16, 1888.

SIR: In view of the revolutionary state of this country, I deem it my duty to inform you that the United States Government does not recognize the right of asylum in consulates for political refugees; consequently you have no right to receive refugees in your consular agency.

Should you so receive them, and difficulty in consequence arise, you would, in that case, have forfeited all claims to the support of the Government of the United States.

However, as consular officer of a great Christian nation, you may be expected to use, on all proper occasion, judiciously, your good offices in behalf of moderation and humanity, exercising at the same time a wise discretion in seeking to avoid all difficulties and misunderstandings with the authorities of the Government within your consular agency.

I am, etc.,

STANISLAS GOUTIER,
United States Consul.

[Inclosure 3 in No. 56.]

Mr. Goutier to Mr. Thompson.

No. 551.] CONSULATE OF THE UNITED STATES,
Cape Haytien, October 8, 1888.

SIR: The entire north and northwest are decidedly in earnest in their intention to secede should General Légitime continue to be a candidate for the Presidency. More than this, they are already preparing for it; they are preparing for war.

I can give you no idea of the hostile feelings of the people of Cape Haytien, as well as the country people. There is but one cry for vengeance since the death (but they say the murder) of General Séide Télémaque and a number of his men.

In view of this impending fratricidal war and its disastrous results the consuls here are of opinion that the diplomatic and consular corps at Port au Prince might, by using such means as they deem proper, by appealing to the patriotism of the members of the provisional government, or the existing authorities, induce them to have General Légitime's name withdrawn from the list of candidates for the Presidency, being that alone can save Hayti from all the horrors of civil war with its direful consequences.

I most respectfully recommend these suggestions, hastily put together, to your earnest consideration and superior knowledge; and I do so with more confidence, knowing your sympathy for this struggling Republic.

I am, etc.,

STANISLAS GOUTIER,
United States Consul.

[Inclosure 4 in No. 56.]

Mr. Rives to Mr. Goutier.

No. 351.] DEPARTMENT OF STATE,
Washington, October 31, 1888.

SIR: Your dispatch No. 912, of the 8th instant, transmits your circular instruction of August 16 last, to the consular agents at Gonaïves and Port de Paix, cautioning them as regards the so-called "right" of political asylum.

Your caution was timely, in view of the distressing events then apprehended, and which have since taken place in Hayti; and it is only regretted that you have again fallen into the error of announcing that "the United States Government does not recognize the right of asylum in consulates for political refugees," which error the Department pointed out and corrected in its instruction to Mr. Thompson, No. 29, of November 7, 1885. That instruction, including your dispatch to the Department of October 14, 1885, No. 757, which called it forth, is printed in the volume of Foreign Relations for 1886; pages 530–531, but in case you should not possess the book, a copy of the correspondence referred to is attached hereto for your convenient information.

The position of this Government, briefly summarized, is this: We do not regard extraterritorial asylum, either in a legation or a consulate, as a right to be claimed under international law. We do not sanction or invite the exercise of asylum in those countries where it actually exists as a usage, but in such cases we recognize and admit its existence, and should circumstances bring about the uninvited resort of a political refugee for shelter to a consulate or legation of the United States, we should expect equal toleration and privilege in this regard with that allowed by such local usage to any other consulate or legation.

This statement shows the error into which you have fallen in instructing the consular agents that, should they receive political refugees, and difficulty arise in consequence, they would "in that case have forfeited all claims to the support of the Government of the United States." Only the reported facts of an actual case arising could enable the Department to determine whether an abuse of the local usage had been committed.

The present instruction taken in connection with the memorandum on the subject communicated to you with the Department's No. 185 of August 23, 1884, will doubtless make this complex and delicate question sufficiently clear for your guidance.

A copy of this correspondence will be sent to the legation at Port au Prince for its information.

I am, etc.,

G. L. RIVES,
Assistant Secretary.

[Inclosure 5 in No. 56.]

Mr. Bayard to Mr. Thompson.

No. 29.] DEPARTMENT OF STATE,
Washington, November 7, 1885.

SIR: The subject of asylum in Hayti, to which reference was made in my instruction No. 28 of the 3d instant, is again brought to the Department's attention by the representations of Mr. Goutier, United States consul at Cape Haytien, a copy of whose dispatch, No. 757, of the 14th ultimo, is herewith inclosed for your information.

Mr. Goutier sets out with an erroneous summing up of the position taken by this Government in the premises. He says in one place that "the United States does not *recognize* the right of asylum in her consulates;" and, further, that "it is plainly set forth that this right is not admitted."

The statement properly should be that the Government of the United States does not *claim* for its legations abroad any extraterritorial privileges of asylum, and consequently makes no such *claim* in respect of consular offices, or private residences of American citizens, or American merchant vessels in port. If, as a custom, in any country, the practice of asylum prevails, and is tacitly or explicitly recognized by the local authorities in respect of legations, consulates, private dwellings, or vessels of another nationality, the exercise of the consuetudinary privilege by Americans could not be deemed exceptional; and if, under any circumstances, refugees find their way to places of shelter under the American flag, or in the domicile of American citizens, we should certainly expect such privileges as would be accorded were the like shelter under the flag or domicile of another power. But we claim no right or privilege of asylum; on the contrary, we discountenance it, especially when it may tend to obstruct the direct operation of law and justice.

Mr. Goutier next refers to the case of the insurgent who took refuge on the French bark *Panama*, and says that with the Department's instructions in view he would have been much perplexed had the vessel been American, for, says he, "it would have been my duty to allow the authorities to go on board and arrest that Haytian insurgent." And Mr. Goutier goes on to argue that if any other power claims the right of asylum in a given case, the United States could not forego a similar claim without loss of prestige.

As we understand the case of the *Panama*, the local authorities applied to the consul for permission to go on board and take the fugitive. In a case which recently arose in Cuba, where application was made to a consul to order the delivery of a person then on board an American vessel in port, who was accused of common crimes, and where the consul, after examining the charge against the person, ordered the captain to deliver him up, this Department held that the consul had no authority to order such surrender.

* * * * * * *

It does not seem pertinent to the present instruction to discuss the ethics of humanity, to which Mr. Goutier adverts. Section 48 of the Department's lately issued personal instructions to its diplomatic agents abroad is abundant evidence that the principles of common humanity, where arbitrary pursuit of merely political offenders is concerned, have not been overlooked in its ruling.

This instruction will enable you to answer Mr. Goutier, and you are requested to do so. It will also serve for your guidance in dealing with questions of this nature which may hereafter arise.

I am, sir, etc.,

T. F. BAYARD.

[Inclosure 6 in No. 56.]

Mr. Goutier to Mr. Hunter.

No. 757.] UNITED STATES CONSULATE,
Cape Haytien, October 14, 1885.

SIR: We have been instructed that the Government of the United States does not recognize the right of asylum in her consulates, and in the confidential memorandum sent last year to the German minister at Washington in relation to the views of our Government on the right of asylum in Hayti, it is plainly set forth that this right is not admitted.

If that Haytian insurgent who had taken refuge on board of the French bark *Panama*, as related in my No. 756 of the 12th instant, and the French vice-consul would not permit the authorities to go on board for the purpose of arresting him, had taken refuge on board of an American vessel, with these instructions in view, I would have been much perplexed, for it would have been my duty to allow the authorities to go on board and arrest that Haytian insurgent.

His doom would have been sealed! Still it seems to me that a consul of the United States ought to occupy in Hayti the same position as that occupied by the consuls of the other great powers. For such a difference in affording protection in this country would be looked upon by the ignorant masses as a mark of inferiority, and would give a certain prestige, even to consuls of second-class powers, not enjoyed by those of the American nation.

I know that the action of the French vice-consul in refusing to permit the authorities to go on board the French bark *Panama* to arrest that Haytian insurgent, as well as the so-called right of asylum in Hayti, are in direct violation of international law and usage.

Still * * * we can not be surprised to find the great powers rather reluctant to relinquish a course of action which, in some instances, has been abused; but these abuses fade to insignificance when placed beside the countless good they have accomplished. * * * I shall endeavor to keep my consulate free of refugees, without it be in exceptional cases where human life is wantonly destroyed. Then, as consul of a great Christian nation, obeying the supreme law of humanity, I would be impelled to save as many lives as I possibly could.

I would be thankful should the Department be pleased to outline some general instructions, in order that I might act knowingly, especially should Haytians seek protection on board of American vessels in this port.

* * * * * * *

I am, etc.,

STANISLAS GOUTIER,
United States Consul.

No. 670.

Mr. Rives to Mr. Thompson.

No. 130.] DEPARTMENT OF STATE,
Washington, November 2, 1888.

SIR: Mr. Stanislas Goutier, the consul of the United States at Cape Haytien, reports to the Department a letter* addressed by him to you on the 8th ultimo, whereby he appears to concur in and express the suggestion of the consular body at Cape Haytien that Senator Légitime should withdraw his candidacy for the Presidency of Hayti in the interest of peace. The Department, while recognizing the good motives which induced Mr. Goutier to join in this proceeding, has felt called upon to rebuke his action, as at variance alike with the policy of this Government and the sound principles of international comity, which forbid any interference of its representatives, however remotely, with the free exercise of sovereign rights by foreign communities in the control of their domestic affairs. A copy of the instruction sent to Mr. Goutier is herewith inclosed for your information.

I am, etc.,

G. L. RIVES,
Acting Secretary.

[Inclosure in No. 130.]

Mr. Rives to Mr. Goutier.

No. 352.] DEPARTMENT OF STATE,
Washington, November 1, 1888.

SIR: Your dispatches numbered 910, 912, 913, and 914, bearing the respective dates of October 4, 8, 13, and 15, 1888, have been received.

The interesting and effective recital they give of the recent revolutionary occurrences at Cape Haytien and the movement against the capital is commended.

The Department can not, however, so commend your reported letter of October 8 to Mr. Thompson, in which, referring to the excited feelings of the inhabitants of northern Hayti and their avowed purpose to avenge the death of General Thélémaque, you say:

"In view of this impending fratricidal war and its disastrous result, the consuls here are of opinion that the diplomatic and consular corps at Port au Prince might, by using such means as they deem proper, by appealing to the patriotism of the members of the provisional government or the existing authorities, induce them to have General Légitime's name withdrawn from the list of candidates for the Presidency, being that alone can save Hayti from all the horrors of civil war, with its direful consequences."

Fully recognizing the humane and honest motives which inspired you in thus addressing the United States minister at the Haytian capital, this Government can not lend the approbation of silence to the extraordinary suggestion of interference with the free exercise of the franchise by the Haytian people which is involved in the recommendation you make on behalf of your consular associates and in your own name. This Department is clearly and decidedly of the opinion that the expression of individual views by any representative of the United States in regard to a pending election by the citizens of the country to which he is accredited is a gross impropriety, which in a proper case entirely warrants his recall or dismissal from his post. In the present instance the apparent urgency of the case and your laudable desire to prevent bloodshed are sufficient to relieve you from any severer mark of the President's displeasure than the course hereby conveyed. Indeed, I am quite sure that had you been prompted less by the instant impulses of humanity and the desire to avert imminent disaster, reflection would have led you to withhold assent from the proposal of your colleagues.

I am, etc.,

G. L. RIVES,
Acting Secretary.

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* See inclosure to Document No. 669, *ante*, p. 937.

No. 671.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 218.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 3, 1888. (Received November 19.)

SIR: Having been informed by Captain Compton, of the steam-ship *Haytian Republic*, yesterday, the 2d instant, that his ten passengers had voluntarily consented to the authorities' request that they come ashore, and that they had consequently left the ship; furthermore, that the tribunal had rendered a verdict of confiscation of the vessel by the Haytian authorities and a payment to be made them of $50,000 by the Hayti Mail Line for damage done, and that those on board must leave the ship at once, I immediately addressed a dispatch to the chargé of foreign affairs (copy herein transmitted, marked A), you will please notice that in conformity with my previous dispatch on the subject (inclosure No. 3 to dispatch No. 217) I ignored the object and validity of the tribunal formed, and that in this last dispatch I only speak of "a verdict and a tribunal," as it has been but a mockery, the tribunal they established as a court of admiralty.

I am certain you will agree it was absolutely necessary that I send an energetic protest about this matter, as Captain Compton has been ordered several times to leave his ship, but, following my instructions, he will not do so unless those giving the order first pull down the flags over the vessel and force him off.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 218.]

Mr. Thompson to Mr. Piquant.

No. 86.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 2, 1888.

SIR: The undersigned has been informed authoritatively that a tribunal has rendered a verdict that the American steam-ship *Haytian Republic* be delivered to the authorities at Port au Prince, and in consequence that all of the crew on board leave the ship. Now, I, the undersigned, minister resident of the United States, protest in the name of the Government of the United States against—

(1) The seizure of such vessel.
(2) Against the irregular tribunal that has rendered the decision.
(3) Against the verdict.
(4) Against any action being taken by the authorities until I can receive instructions from my Government.

And do by the present hold the authorities of Port au Prince responsible for all damages in the premises, declaring most solemnly at the same time that the crew of the above-mentioned steamer are under the protection of my flag, the ensign of the Republic of the United States of America.

The undersigned has the honor to be, sir, with assurance of distinguished consideration,

Your obedient servant,

JOHN E. W. THOMPSON.

No. 672.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 219.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 6, 1888. (Received November 21.)

SIR: Yesterday morning, the 5th instant, I received a cable dispatch via Mole St. Nicholas, which read as follows:

Protest instantly against action of Haytian authorities; man-of-war ordered.

In the evening the United States ship *Boston*, Captain Ramsey, came into the harbor. This morning we commenced a joint study of the seizure of the steamer *Haytian Republic* and the schooner *William Jones*. My previous dispatch will explain the attitude I have taken in the two affairs.

I have, etc.,

JOHN E. W. THOMPSON.

No. 673.

Mr. Bayard to Mr. Thompson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 10, 1888.

THOMPSON, *Minister:*

Your 217 received. Carefully avoid taking sides in domestic strifes in Hayti, and consult freely with commander of the *Boston* for protection of American interests.

BAYARD.

No. 674.

Mr. Thompson to Mr. Bayard.

No. 220.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 15, 1888. (Received November 26.)

SIR: The U. S. S. *Boston* intends leaving here to-morrow morning direct for New York and will communicate immediately with the Navy Department and send full details as to the case of the steam-ship *Haytian Republic* and that of the schooner *William Jones*.

I will forward my report to the Department on these two cases as soon as it can be prepared, as the questions contain a great deal of reading matter.

I have, etc.,

JOHN E. W. THOMPSON.

No. 675.

Mr. Bayard to Mr. Thompson.

No. 132.] DEPARTMENT OF STATE,
Washington, November 15, 1888.

SIR: I have received your No. 217 of the 29th ultimo, reporting the seizure of the American steamer *Haytian Republic* and the American schooner *William Jones* by the Haytian authorities for alleged infringements of the blockade declared as to certain ports in the island of Hayti.

On the 10th instant I sent you, through our consul at Kingston, Jamacia, the following telegram:

Your 217 received. Carefully avoid taking sides in domestic strife in Hayti, and consult freely with commander [of] *Boston* for protection [of] American interests.

This telegram I now confirm.

I am, etc.,

T. F. BAYARD.

No. 676.

Mr. Bayard to Mr. Thompson.

No. 133.] DEPARTMENT OF STATE,
Washington, November 16, 1888.

SIR: I transmit herewith for your information copy of a note* received from Mr. Preston, the Haytian minister in this country, with its inclosure, being a ceremonial letter addressed to the President of the United States by General Légitime, touching the latter's elevation to the executive power of Hayti, and also copy of my reply,† deferring the reception of such a missive by the President until the course of events shall have given reasonable stability to General Légitime's government in that Republic.

This course was rendered necessary by the fact that the titular Government of President Salomon has been forcibly overthrown and that claim to recognition on the part of any successor must await events.

The position of the United States in this regard is well presented in an instruction, sent March 9, 1863, to the representative of the United States at Caracas, and called forth by a condition of affairs in Venezuela not unlike that now existing in Hayti, as follows:

This Government has, and it must insist on, the right to determine for itself when new authorities, established in a foreign State, can claim from it a formal recognition of them as an established power.

This Government has at the same time, under the law of nations and by treaty, a clear right to have its properly appointed agents residing in Venezuela, although the authorities with which it has heretofore treated have been subverted more or less completely, and to communicate with the new authorities upon international matters affecting either the Government of the United States or its citizens. During the period, which, in case of any domestic revolution, may be either short or long, the agents of this Government have a right to confer upon such matters with the actual authorities who are conducting the affairs of Venezuela, and while the agent is bound to avoid all interference in the domestic questions of that State, he is entitled to be heard as the representative of the United States, without a previous recognition of the existing authorities in place of those which have been either more or less effectively supplanted.

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* See document No. 703, *post*, p. 993. † See document No. 705, *post*, p. 994.

During the events of the winter 1886–'87, when Peru was under the control of a provisional government, pending the action of the people upon the rival claims of Generals Iglesias and Cáceres, this Government, while continuing intercourse with the authorities in possession, deferred formal recognition until it became evident that the assent of the Peruvian nation had been indicated.

You have already been instructed to steer a careful course, and your discretion is relied upon not to interfere in Haytian domestic affairs or take sides in the internecine struggles in which the people of Hayti are now unhappily engaged. Your business intercourse with the local authorities, so far as the interests of this Government and its citizens are concerned, will be necessarily with the party *de facto* in control, but such action on your part can not imply any determination or the expression of opinion on the part of this Government as to the question of formal recognition.

We now await reports from the commander of the *Boston* and yourself, after the reception of which you will again receive instructions.

I am, sir, your obedient servant,

T. F. BAYARD.

No. 677.

Mr. Thompson to Mr. Bayard.

No. 221.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 16, 1888. (Received November 30.)

SIR: Referring to my No. 217, wherein the case of the schooner *William Jones*, of Boston, Mass., is alluded to as having been captured when sailing for Gonaïves on the 20th ultimo, I have the honor to inform you that to-day I have terminated the affair, having succeeded in proving to the authorities of this city that such ship was not legally notified of the blockade, because no notification was inscribed on her papers as law requires; that she was ordered to Port au Prince arbitrarily, for after the notification that a port is blockaded the ship should have been allowed to proceed to any other open port of her choice; that having been brought to this harbor notwithstanding my protests in the premises, a guard was kept on board and the captain and crew treated as prisoners for some twenty days. Being ordered by the Haytian gunboat *Toussaint L'Ouverture*, she proceeded to this harbor and accepted the treatment of a prisoner. I claimed damages to the amount of $10,000, and the ship is allowed to enter this port free of duties on her cargo and for her tonnage. In fact, in round numbers, the indemnity with these privileges amounts to about $20,000. I have paid over the sum of $10,000 to Captain Collins, who is the principal owner of the ship. I have his receipt in duplicate for the amount. The ship is now being unloaded at the wharf.

I have, etc.,

JOHN E. W. THOMPSON.

No. 678.

Mr. Thompson to Mr. Bayard.

No. 222.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 17, 1888. (Received November 30.)

SIR: I transmit herein, in order to show the status of the case of the steamer *Haytian Republic*, recent dispatches passed between this legation and the Haytian foreign office. Such dispatches will show that being unable to convince the authorities of their irregularity and illegality, and arrive at a settlement of the case, they apparently hope for a decision favorable to them from the Department at Washington as to a solution of the affair.

Mr. John D. Metzger, agent of the steam-ship *Haytian Republic*, has just brought me a printed copy, with translation, of a document entitled "Protestation against the condemnation of the American steamer *Haytian Republic*," which he requests me to forward to the Department, and which I find has been carefully prepared, and is a striking defense of such vessel, hence I inclose it herein marked with translation I and J.

I am unable, by this mail, to send copies of all the documents with translations in the case, but will do so as soon as such work is finished.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 222.—Translation.]

Mr. Margron to Mr. Thompson.

DEPARTMENT OF STATE OF FOREIGN RELATIONS, SECTION NO. ——,
Port au Prince, November 15, 1888.

Mr. MINISTER: The Government takes pleasure in rendering homage to the sentiments of high agreeableness of which you have given proofs, you and the commander of the *Boston*, in the two interviews that the chief of the executive power has had with you relative to the capture of the *Haytian Republic*. The courtesy that presided at these interviews, both impressed with the most perfect cordiality, is a new testimony of the kindly dispositions with which is animated towards Hayti the great Republic of the American Union, and the discussions that have taken place on the subject, notwithstanding the divergence of our views, have only tightened the bonds that united the two Republics by the pleasantness that formed the basis.

Also, the Government of Hayti does not hesitate to defer to your Government the case of the *Haytian Republic*, of which all the documents will be submitted to its high appreciation by our minister at Washington.

Convinced of its good rights and full of confidence in the impartiality of the great Republic, the Haytian nation in no wise doubts that the American Government will recognize the well-founded judgment of the prize court instituted at Port au Prince and fully give it right, without being in any manner necessary to have recourse to an ulterior arbitration.

Please accept, Mr. Minister, the assurance of my high consideration.

The counselor charged with the department of foreign relations.

EUG. MARGRON.

[Inclosure 2 in No. 222.]

Mr. Thompson to Mr. Margron.

No. 95.] LEGATION OF THE UNITED STATES,
November 15, 1888.

SIR: I am in receipt of yours of this date, wherein you state that you do not hesitate to refer the case of the *Haytian Republic* to the judgment of the Government of the United States, and express a desire so to do since we have already had two con-

ferences on this subject, and without any result whatever. After mature consideration of the question and consultation with Capt. F. M. Ramsay, of the United States ship *Boston*, I have decided to comply with your request, and will therefore communicate to my Government, by the first opportunity, the tenor of your dispatch.

I hereby call to your attention the fact that one of the crew of the *Haytian Republic* died last evening, and that others are sick on board; in consequence I must request that such crew be turned over to my care, that I may embark them by the first opportunity to the United States.

It is understood that the authorities taking charge of the steamer *Haytian Republic* are responsible to the United States Government for the same.

Accept, sir, the assurance of my distinguished consideration.

JOHN E. W. THOMPSON,
Port au Prince.

[Inclosure 3 in No. 222.—Translation.]

Mr. Margron to Mr. Thompson.

DEPARTMENT OF STATE OF FOREIGN RELATIONS, SECTION NO. ——,
Port au Prince, November 16, 1888.

Mr. MINISTER: I have the honor to inform you that the Government has named Messrs. E. Leon, lawyer; D. Abellard, director of the national foundry; Phocion Daguerre, chief of the movements of the port of the capital, and P. Jean Jacques, justice of peace of the northern section of this city, members of a commission to proceed conjunctively with those that you will add to take an inventory of the steamer *Haytian Republic.*

I beg you to kindly let me know the names of the members that you will have designated. Please accept, Mr. Minister, the assurance of my high consideration.

The counselor of the Government charged with the department of foreign relations.

EUG. MARGRON.

[Inclosure 4 in No. 222.]

Mr. Thompson to Mr. Margron.

No. 96.] LEGATION OF THE UNITED STATES,
November 16, 1888.

SIR: I have the honor, in reply to your dispatch of this date, wherein I am invited to name members of a commission to make an inventory on the steamer *Haytian Republic,* to inform you that such vessel being held by the Haytian authorities as a "good capture," that notwithstanding the case has been referred to the Department of State at Washington, the custody of the vessel is in the hands of her captors, who, according to law, are to take proper care of her. In consequence, I can not accept to take part in any proceedings whatever, and beg most respectfully to reiterate that the authorities holding such vessel are directly responsible to the United States Government for any damages in the premises.

Accept, sir, I pray you, the assurance of my distinguished consideration.

JOHN E. W. THOMPSON.

[Inclosure 5 in No. 222.—Translation.]

Mr. Margron to Mr. Thompson.

DEPARTMENT OF STATE OF FOREIGN RELATIONS, SECTION NO. ——,
Port au Prince, November 16, 1888.

MR. MINISTER: I have had the honor to receive your letter of the 15th instant responding to mine of the same date.

You make me to know that after having conferred with the captain, F. M. Ramsay, of the U. S. S. *Boston,* you appreciate the decision of the Government to defer the case of the steamer *Haytian Republic* to the Government of the United States through the intermediary of the minister of Hayti at Washington, and that you will communicate by the first occasion to your Government the tenor of my letter.

In adding afterwards that one of the men of the crew of that vessel is dead, and

that the others are sick on board, you ask that you be granted the faculty of sending these latter to the United States by the first opportunity.

And you say finally that it is understood that the Haytian Government, in taking charge of the steamer *Haytian Republic*, remains responsible towards the American Government.

In thanking you for this communication, of which the Government has taken good note, I would inform you that it consents to your request relative to the sending away of the crew of the vessel to the United States, under the reserve to exercise against it the right of pursuit before the American courts.

Please accept, Mr. Minister, the assurance of my high consideration.

The counselor charged with the department of foreign relations.

EUGENE MARGRON.

[Inclosure 6 in No. 222.—Translation.]

PROTEST AGAINST THE CONDEMNATION OF AMERICAN STEAMER HAYTIAN REPUBLIC.

The *Haytian Republic*, an American ship of the "Haytian Mail Steam-ship Line," the head offices of company being in Boston, Mass., had quitted the port of St. Marc when she was captured by the Haytian gun-boat *Dessalines*, in execution of a blockade decreed on the 15th of October, 1888, by the provisional government of Hayti.

By circular of the "chief of the executive power," dated the 21st of October, a prize court (tribunal des prises) was soon instituted at Port au Prince. After a preliminary investigation, which was a mere mockery, inasmuch as the witnesses called were not even subjected to the formality of an oath, the captain and agent of the proprietors of the captured vessel were summoned (by subpœnas dated the 27th of October) to a public trial by which the validity of the capture was to be established, the confiscation of the vessel and cargo was to be pronounced, and damages were to be awarded.

Mr. John D. Metzger, the agent of the Haytian Mail Steam-ship Company, alone appeared on behalf of the company, and petitioned for a brief delay necessary to prepare his defense. But this delay was promptly and categorically refused him, upon which he entered a protest and withdrew, leaving the court to pronounce judgment by default.

It is held that the steam-ship *Haytian Republic*, arriving at the capes when this city was already in a state of insurrection against the provisional government, had landed a cannon (6-pounder), mounted on a carriage; that she had taken on board not only a delegation of the revolutionary committee of the cape, commissioned (they say) to arouse the departments of the Northwest, the Artibonite, and the South, but also soldiers, and eighty cases of ammunition; that she had transported soldiers from Port de Paix to Gonaïves and from Gonaïves to St. Marc: that from the latter places she had proceeded to Petit Goâve, to Miragoâne, and to Cayes, where the delegation sent a manifesto and other printed matter to the military authorities; that at Jacmel, which the delegation had succeeded in arousing to arms, the *Haytian Republic* had taken on board the two constituents (*i. e.*, members elected to the constitutional assembly) of that city, one from Bainet, and other Haytians, to carry them, as it appears, to the North; but that in the waters of St. Marc she met the *Dessalines;* that signals of various kinds—among them a blank charge of powder from a cannon, followed by six charges with balls—were given, but that these did not succeed in preventing her superior speed from entering the port, and that she was captured whilst coming out on the 21st of October, 1888.

Such are the circumstances, real or supposed, upon which the prize court (tribunal des prises) have based their judgment of the 31st of October last, by which they have declared the capture of the *Haytian Republic* good and valid, ordered the confiscation of this vessel to the benefit of the Government of Hayti, and have condemned jointly and severally the captain and owner thereof to pay to this Government $50,000 damages.

One thing is certain, viz, that, excepting a return once from Gonaïves to Port de Paix, the *Haytian Republic* did not deviate from her habitual route to serve the insurgents.

II.

A circular letter of General Légitime, the "chief of the executive power," under date the 21st of October, 1888, announced to Messrs. H. Léchaud, J. N. Léger, Justin Dévot, M. Laforest, and Dantès Fortunat that, acting with the advice of his council, he had constituted them a special prize court (tribunal spécial des prises) for the purpose of adjudicating on the cases of contraband of war which should present

themselves throughout the duration of the insurrectionary movements of the North and of the Artibonite.

Now, no law, no text of a constitution of Hayti, nor even of the treaty of the 3d November, 1864, having admitted a special prize court (tribunal spécial des prises) side by side with the ordinary tribunals of the Republic of Hayti, it follows inevitably that the "chief of the executive power" has, by this act, forced and confounded into one two powers or functions altogether distinct from each other, viz, the creation of a new jurisdiction, and the designation of the functionaries who are to exercise it.*

A parallel case presented itself to the attention of the United States Government during the Mexican war, in which the Supreme Court decided that neither the President of the United States nor any functionary acting under his authority has the power to confer jurisdiction in the matter of prizes to courts or tribunals whose authority does not emanate from the law or from the Constitution. (See Calvo, vol. 4, sec. 2862 *in fine.*)

In Hayti there has existed, ever since the foundation of the Republic, the same separation of the legislative from the executive power. It is either the constitution or the law only (being the work of the former of these powers) which institutes jurisdictions. Since 1816 the executive has not had, in a matter of this kind, any other power except that of appointing to judicial functions already created by the legislature.

If, therefore, the present "chief of the executive power" had the right to name the members of the prize court (tribunal des prises), his action would not, and could not, be legal until after a law enacted by the legislature had decreed the existence, determined the powers, and fixed the composition of this tribunal. It is therefore in violation of the invariable principles of Haytian law and right that General Légitime assumed the authority to give to the persons whom he had chosen the commission to adjudicate on the case of the *Haytian Republic.*

To meet this grave difficulty, some pretend that before the judgment of the prize court was pronounced—*i. e.*, before the 31st of October—the unauthorized and illegal circular by which General Légitime, on the 21st of October, 1888, created the said prize court had been approved in the deliberations of the constitutional assembly in session at Port au Prince.

If this be true, it is nothing else and nothing less than a solemn avowal of the illegality of the act by which General Légitime created his prize court. It can not be proved that such a ratification can have the effect of effacing this radical defect, the existence of which it so clearly recognizes. But, as a fact, this allegation is not true. In the month of September eighty persons were elected to compose the constitutional assembly (assemblée constituante). The principle of the majority, which has always governed, and which still governs, the workings of the Haytian chambers of legislature, exacted the presence of forty-one members (constituants) at least, in order to render valid the acts and deliberations of any session of this body. Now, the number of citizens elected to the "*assemblée constituante,*" and who have taken their seats in the legislative halls since the 15th of October, 1888, has never exceeded thirty-six, and therefore the decision by which they sanctioned the circular of the 31st of October must be null and void, being the act of a powerless minority.

III.

According to Bluntschli, whose work is standard on this matter, "the form of proceeding before the prize court or councils not being regulated by international law, recourse must be had to the forms in use in the State from which the council derives its powers." (See Droit International Codifié, No. 848.)

Admitting the creation of the prize court or council, such as was decreed in October, 1888, it is still inadmissible that, in the absence of any law, such prize court should proceed according to caprice or arbitrary pleasure, for the reason that neutral parties have the right of untrammeled defense, and they have need of rules by which they shall be guarantied that the prosecution is conducted with impartiality.

Of all the forms of trial in use in Hayti, that which might have been chosen as of more adaptability in the premises is the form of the code of criminal instruction (code d'instruction criminelle), because the character of the facts judged by the prize court or council is confined to infractions of the penal code. Neither the solemn procedure before the jury nor the too-hasty procedure of the police courts is adapted to our case. It is rather to the mode of procedure before the correctional courts that recourse should be had, if the object is to reconcile that promptness which the public interests claim with the respect due to the defense of neutral parties.

Now, in the trial of simple misdemeanors (*i. e.*, offenses punishable by fine and imprisonment) before the correctional court, the law grants to the accused a delay of

* It will be seen that these powers or functions are constitutionally distinct both as to their origin and as to their nature.

three full days to prepare his defense. If, for example, the subpœna is served upon him on the 27th, the trial can not be ordered to take place before the 31st.

But in the case of the *Haytian Republic*, such was the haste to close the affair even at the sacrifice of justice, that although the summons were served on Messrs. Metzger and Compton only on the 27th of October, the 30th was fixed for the trial. Mr. Metzger, who presented himself on behalf of the ship and owners on the day fixed, prayed in vain for the delay necessary to prepare his defense. The prize court refused to entertain his prayer, and passed an adverse judgment on the case.

IV.

According to this judgment, pronounced on October 31, 1888, the facts upon which is based the conviction of the *Haytian Republic* are of two categories, viz: That at the cape she had sold a cannon with its carriage,* had given passage to armed insurgents and emissaries of the insurrectionary party, and had transported ammunitions from one port to another; in a word, that she had violated the blockade.

V.

It is not satisfactorily proved from the papers and declarations of the witnesses that a cannon with its carriage had been landed at Cape Hayti. Neither Mr. Victor Jean Pierre, nor Mr. Vital Alcide Charlemagne, nor Mr. Léon Nicolet, nor even Mr. Solon Ménos—in fine, none of the witnesses called by the prosecution has testified to this fact. The numerous letters from functionaries or from ordinary Haytian citizens mentioned in the judgment say nothing on this subject, and (what is especially worthy of notice) neither the captain nor the agent of the vessel has been challenged or compelled to give any explanation. It is said that a letter was written by the French consular agent to his minister at Port au Prince on the subject, and it is upon this simple letter, which possesses no judicial value whatever, that this count in the accusation is based.

But the prize-court or council ought to have perceived that the author of this letter, not being an avowed or ostensible agent of the Government of Port au Prince, his reports, although written, perhaps, in accordance with the mind of the Government, are worth nothing in the eyes of justice, and that what is necessary is the affirmation, not of a person who writes from a distance, but of a witness who appears in person, and who does not testify except under oath.

As to the arms, they were probably those which the individuals taking passage either from the cape or from Port de Paix habitually carry about with them. But even upon this point the depositions do not agree.

Doubtless the French consular agent, whose letter has been shown to be valueless as testimony, speaks of 256 men well armed with Remington or repeating rifles. Mr. Léon Nicolet mentions 300 armed men who had landed at Gonaïves; but Mr. Vital Alcide Charlemagne had seen only 125 men, more or less armed, land at Gonaïves, whilst Mr. Victor Jean Pierre affirmed that, when during the voyage which preceded the capture the *Haytian Republic* landed at St. Marc the volunteers from the Cape and Gonaïves, these volunteers were not armed. If in the depositions of the same witness there is mention of arms during the return voyage from Jacmel to St. Marc—*i. e.*, the voyage when the vessel was captured—it is necessary to weigh attentively the terms which he used, viz: "They say that she (the vessel) had landed these arms on Saturday." Thus it is not certain that the persons transported from the cape to St. Marc were armed, if we except a half dozen whom Captain Compton admits to have had arms.

But, however this may be, neither the sale of the cannon nor the transportation of the eighty cases of ammunition (which, besides, is not attested by any one but the French consular agent at the cape), nor the passage given to the volunteers from that city and from Port de Paix, can serve as a legal basis for a judgment against the *Haytian Republic*. In fact, the restrictions to the liberty of the commerce of neutrals with an enemy are (1) interdiction from carrying to such enemy contraband of war, and (2) interdiction from giving passage to the officers and soldiers actually in his (the enemy's) service.

There is no doubt that this cannon and the eighty cases of ammunition are contraband of war according to article 20 of the treaty of the 3d of November, 1864, existing between the United States and the Republic of Hayti, and that the volunteers from the cape, from Port de Paix, and from Gonaïves were soldiers in the service of the enemy. But when it is a question of prohibited articles or of hostile persons, that which constitutes the misdemeanor of contraband of war on the part of the neutral party is the actual presence of arms or soldiers on board the vessel. After they have

* This is a small cannon, which was used for firing salutes on board, and which was absolutely useless for purposes of war.

arrived at their destination, after they have been landed, the offense is finished, the misdemeanor ceases, and at the same time the right of investigating or prosecuting it.

Bluntschli says (see No. 818):

"Vessels which transport hostile troops become neutral again as soon as the transportation has been effected, and they can not be captured after the landing has taken place."

Calvo says (see Drait International, § 2467):

"In strict equity the misdemeanor of contraband being successfully accomplished in the voyage going, the vessel is not subject to capture in returning."

Wheaton agrees with Sir William Scott, whose opinions he cites as follows:

"The general rule relative to articles which are contraband of war is, as Sir William Scott defines, that the articles must be captured *in delicto*, and during the actual pursuit of the voyage to the hostile port."

"If," says Sir William Scott, "the goods are not captured *in delicto*, and during the actual pursuit of the voyage, no penalty is at the present day attached."

When the *Haytian Republic* was captured at St. Marc she had quitted Jacmel and was on her return voyage.

Several days had elapsed since she had accomplished her voyage going to the hostile ports, and since she had landed the arms, ammunitions, and troops, she was free therefore from all legal prosecution under this head.

But the opinions of authors, though favorable, go for little in presence of an argument of conventional law. The *Haytian Republic* assuredly belongs to citizens of a neutral power. If other proofs of this were wanting the judgment of the prize-court rendered 31st October, in which this fact is recognized, would supply them. Well, according to the last paragraph of article 28 of the treaty of the 3d November, 1864, existing between the United States and the Republic of Hayti—

"If it be evident from other documents, whether a passport or certificates or other proofs admissible according to the customs and usages of nations, that the vessel belongs to citizens or subjects of the neutral power, she shall not be confiscated, but shall be released, with her cargo, the contraband articles excepted, and shall be set free to pursue her voyage."

Article 10 of the same treaty declares with reference to persons found on board a neutral vessel:

"They can not be taken unless they are officers or soldiers in the actual service of the enemy."

Thus, not only was the *Haytian Republic* free from all legal prosecution from the very moment she had landed the articles and soldiers accounted contraband, but what is more, even had she been taken *in delicto* with all these actually on board, the Government of Port au Prince would have had no legal right, neither to arrest her nor to break up her voyage, nor to confiscate her to their benefit. All that this Government could legally have done is to have seized the contraband articles, and to have made prisoners of the soldiers and officers.

It is proved that on board the *Haytian Republic* were two emissaries from the cape bound on a political mission to the south and to Jacmel. Nothing, however, justifies the belief that Captain Compton knew the object of their vogage. Two passengers, viz, Messrs. Léon Nicolet and Charlemagne, who made the voyage with them, had not been aware of their presence, because, without doubt, no special mark nor avowed title had disclosed their capacity or mission.

If, at Cayes, the delegation from the cape sent a *manifesto* and other printed matter to the commandant of the arrondissement, there exists a letter from the latter functionary, dated the 19th October, 1888, and addressed to provisional government, which proves that it was not the captain of the vessel, but a stranger from the land, who took the said *manifesto* and printed matter ashore.

If the delegation did the same thing at Petit Goâve and at Miragoâne, the silence of the local authorities about the matter does not justify the belief that Captain Compton was the intermediary at those places any more than at Cayes.

It is pitiful to see with what lack of consistency the judgment of the prize-court (October 31, 1888) has endeavored to make Captain Compton the instigator of the insurrection at Jacmel, when, as a fact, his ship entered and left that port on the very day that the population had risen against the government of Port au Prince.

What is true, what alone is true, in spite of the unfounded conjectures inspired by political passion is, that the *Haytian Republic* carried, as passengers, from the cape to Jacmel, and from Jacmel to St. Marc, two delegates of the department of the North, two emissaries of the insurrection, enemies of the power which dominates at Port au Prince; but these were neither officers nor soldiers in the service of the enemy.

Did this vessel, by that act, disregard the obligations of neutrality? Not at all. The second paragraph of article 19 of the treaty of November 3, 1864, existing between the United States and Hayti, says plainly:

"The same neutrality extends to the persons found on board, although these persons may be the enemies of the two parties or of one of them, unless they are officers or soldiers in the actual service of the enemy."

VI.

In contempt of international practice (see Calvo, vol. 4, sec. 2882), the commander of the *Dessalines* did not affirm, under oath, the truth of the report which he made concerning the capture of the *Haytian Republic*. This report, therefore, presents nothing but mere allegations, without any guaranty of exactitude, declarations which nothing recommends as worthy of credit—in fact, to employ any expression used in criminal procedure—nothing but simple statements (not evidence), which may or may not aid a judge in forming a general idea.

Mr. Gaillard (the commander) has not been heard as a sworn witness, neither before the prize-court nor at the preliminary inquiry.

The following is a copy of his report, which, after three days of toil and disappointment, Mr. John D. Metzger finally obtained from the prize-court:

PORT AU PRINCE, *October* 21, 1888.

"*To the Chief of the Executive Power:*

"I have the honor to report to you that yesterday, the 20th instant, about 4.45 o'clock in the afternoon, as we were at the point of La Grande Saline, otherwise called Grande Pierre Baie, a distance of 6 miles from St. Marc, we perceived a steamer in the direction south by west half west a distance of 12 or 13 miles, under the island of La Gonâïve. We immediately ran down upon her. Little by little as we advanced towards her, she directed her course toward the bay of St. Marc. Having approached a distance of 3 miles from the vessel we hoisted our flag of *rendez-vous*, sounded the whistle; nothing was able to stop her. We were obliged, therefore, to fire a blank charge from the cannon in order to stop her. Seeing that she did not comply, we sent six balls at her, which did not reach her, the last falling in the direction of her two masts, at the distance of a quarter of a mile. We were then a mile and a half from the vessel. She had already reached the bay of St. Marc. We took up our position to watch her all the night. The next day, Sunday, towards 7.30 o'clock, she attempted to quit the bay. I whistled to her; I ran down upon her. Seeing that she would not stop I fired a cannon, and then only she changed her course."

But, fortunately, a journal of Port au Prince, Le Progrès, in its issue of the 26th October, 1888, had already published the same report in the following terms:

"PORT AU PRINCE, *October* 21, 1888.

"PRESIDENT: I have the honor to report to you that yesterday, the 20th instant, about 4.45 o'clock in the afternoon, we perceived a steamer going toward the island of La Gonâïve, steering in the direction of the bay of St. Marc. We gave pursuit immediately. Notwithstanding our signals and the reports of our cannon she dared to enter into the latter city, where she remained until next day. At 7.30 o'clock in the morning she prepared herself and came out. Always on our guard we blew the whistle and fired a gun so as to oblige her to surrender at our demand. Indeed the *Haytian Republic*, for it was certainly she, stopped, etc."

Of these two versions of one and the same document there is one which must be apocryphal. This important fact must not be lost sight of, viz, that the text of the journal Le Progrès was published anteriorly to the adverse judgment and at a moment when they had no fears as to the issue of the affair; whereas the copy delivered to Mr. Metzger is *posterior* to the arrival at Port au Prince of a United States war ship sent expressly to investigate the case of the *Haytian Republic*. Is it going too far if one concludes from this that the numerous variations which this copy bears, over and above the statements contained in the journal, are due to the present necessity, recognized by those in fault, of justifying themselves elsewhere than before the Haytian functionaries of the prize-court?

Whatever may be thought of this supposition, the decided difference in the two texts of the reports in question does none the less demonstrate how little credit is to be given to the declarations of Commander Gaillard. According to one of these texts he had only seen a merchant ship appear, which ship steered in the direction of St. Marc, but he has not attempted to say whereabouts he himself was, and by so doing aid us in finding out whether he actually guarded the port or not. According to the other he specifies the point from which he discovered the *Haytian Republic* and goes as far as to determine the distance between the two vessels, viz, 12 or 13 miles. With all due deference to the commander of the *Dessalines*, however, it is clear either that he is not very well skilled in the calculation of distances or that he wantonly deceives himself, because if, in reality, he had been 6 miles north of St. Marc (the bay being 10 miles in width from one extreme point to the other), a vessel which would be under the island of La Gonâïve, outside of the southern extreme point of the bay, would be distant from the *Dessalines* not 12 or 13 miles only, but 16 miles and upwards.

Of the cannon-balls which failed to reach he says: "The last fell in the direction of the two masts of the *Haytian Republic*, at the distance of a quarter of a mile. We were then a mile and a half from the vessel." That is mathematically false. Two

thousand seven hundred and seventy-eight meters are equivalent to 1½ marine miles; the cannon of the *Dessalines* can project a ball to a distance of 3,500 meters; a ball thrown from the *Dessalines* in the direction of the *Haytian Republic* at a distance of a mile and a half would, therefore, have gone beyond rather than have fallen short (on this side) of the latter vessel.

After that, when Commander Gaillard declares that it was at a distance of 3 miles from the *Haytian Republic* that he hoisted his flag of *rendez-vous*, blew the whistle, and fired a blank charge of powder, nothing guaranties that his figure is exact; nothing guaranties that he did not fix upon it by a mere guess or that he did not prepare it expressly, wishing to make it believed that the vessel pursued was in a position to observe the signals from the *Dessalines*.

The truth is that this gun-boat, cruising a long time in the direction of Gonaïves, had left the northern promontory of the bay of St. Marc, known as "La Table du Diable," a long distance behind when she perceived the *Haytian Republic*, who was entering in the bay of St. Marc. If Commander Gaillard, then returning, hoisted a flag, this signal, which the distance rendered invisible to the naked eye, had not been seen, and nothing else in the direction of the Salines had attracted the attention of Captain Compton and his crew. If the whistle had been sounded and cannon discharged it would be necessary first to ascertain unmistakably the distance, the state of the atmosphere, and the force and direction of the wind before it could be proved that they had been heard. In any case the *Haytian Republic*, whom the judgment of the prize court extolled for the superiority of her speed, had already entered far into the bay, whose entrance she found absolutely free, and was able then to await at her anchorage, which she had nearly reached, an explanation of the signal.

There is one fact, however, which no one has thought of doubting, which is that on the 20th of October last the *Haytian Republic* entered the port of St. Marc and the next day quitted it, at a time when this port was declared blockaded. This fact is not calculated to legalize the capture of this vessel.

Two elements, in fact, are necessary to constitute the violation of a blockade on the part of a vessel who has *entered into and quitted* a hostile port; (1) a knowledge of the blockade, and (2) the effectiveness of the blockade.

If one or the other of these conditions is wanting, the neutral vessel is *not subject to capture*, and this in virtue of the general principle of the liberty of commerce with hostile ports.

It is true that by a decree dated the 15th of October, 1888, the provisional government of Hayti declared that the ports of St. Marc, Gonaïves, and Cape Hayti were blockaded, but such declaration has no binding force for strangers if it has not been brought to their knowledge by proper notification.

There are three kinds of notification, viz, (1) the general or diplomatic notification, which is given to neutral governments; (2) the special notification which the commander cruising gives to vessels sailing in the line of the blockade or are there found; and (3) the notification which, in order to mark the commencement and to circumscribe the action of the blockade, the commander of the blockading forces signifies to the authorities of the places whose outside communications he is charged to intercept.

The necessity of the first is indisputable. General Légitime, recognizing this obligation, notified, by a dispatch dated the 16th October, 1888, the United States minister at Port au Prince of the proclamation of the blockade decreed by the provisional government.

Notwithstanding the diplomatic notification the *special* notification is *always indispensable.* This principle is avowed by the prosecuting officer (commissaire du gouvernement) of the prize court at Port au Prince. In his summing up he said, "Commander Gaillard did everything which he possibly could to stop the vessel and to give to her *the special notification necessary in such cases.*" This doctrine has been proclaimed also in the judgment of the prize court (31st October, 1888), which judgment says, "Considering that a blockade is regular when this blockade has been preceded by a general notification and by a special notification."

There is here no error on the part of those who formed the prize court of Port au Prince. They have had recourse to the French jurisprudence, which is authority in Hayti in all matters where said jurisprudence is not in direct opposition to a text of law, and without perceiving it, perhaps, they have adopted the decision of President Lincoln, of the United States of America, contained in his proclamation issued on the 19th of April, 1861.

Charles Calvo, who, in the sense of his opinion, quotes a considerable number of treaties, says, "We do not think that it is going too far to regard the special notification as an essential formality of a blockade." (See Calvo, vol. 4, secs. 2582, 2583, 2584, 2589.)

The *Haytian Republic* had no special notification of the blockade of St. Marc. Commander Gaillard pretends to have sounded the whistle, to have hoisted intentionally a flag of *rendez-vous*, and to have fired at her six or seven times, and the prize court have considered these warnings as establishing sufficiently the special notification.

But, besides the fact that the mere blowing of a whistle has no precise signification, that it is possible for the motion or hoisting of a flag not to be remarked, and that the cannon was fired *after* the *Haytian Republic* had entered the port; besides these facts, we say, there is one circumstance which proves that these warnings did not signify the pursuit of the *Dessalines* and the existence of the blockade. On board of the *Haytian Republic* were the delegation of the insurrectionists of the North, returning from Jacmel, together with the constituents of that city, the constituents of Bainet, and other passengers who could not delude themselves nor hope to delude others with respect to their true character as enemies of the Government of Port au Prince, and who certainly were not anxious to be captured unnecessarily, having it in their power at the same time to avoid such a misfortune. Very well! If, on the *Haytian Republic*, they had been able to see or to hear the signals given by the *Dessalines*, if, above all, they had been able to understand the signification of these signals, is it not irresistibly clear that the delegates, the constituents, and the Haytian passengers would, on arriving at St. Marc, have abandoned the sea altogether and have continued their voyage by land, seeing, too, that all the territory from this point to Cape Hayti was in favor of the insurrection? If they acted otherwise, if they quitted St. Marc again immediately on the same vessel (as they unquestionably did, it is certainly because the signals did not warn them in an unmistakable manner that the port was blockaded by the *Dessalines*.

But the sounds of a whistle, the motion of a flag, the distant reports of cannon—are these, properly speaking, the "special notification" of a blockade? Although in general the form of individual warning is not determined, it is not by signals that the French practice has decided that it shall be given. These signals are equivocal. The "special notification" must be made in writing and must be registered on the muster-roll of the neutral vessel. (See Comte Molé, Dépêche du 17 Mai, 1838; French treaty with Brazil, Bolivia, Venezuela, Ecuador, New Grenada; years 1828, 1835, 1843, 1844.)

Thus, also, the conseil d'état (council of state) annulled the capture of the *Louisa* because it was not sufficient that the blockade had been notified to foreign powers; it was necessary, besides, that the vessel should have been specially notified of the existence and extent of the blockade, and that the announcement of this notification should have been written on her muster-roll. (See Calvo, Vol. 4, sec. 2661.)

The Government of the United States has recently adopted a rule of conduct which assimilates itself to the French practice. The declaration of the blockade of the ports of the Southern States, made by President Lincoln, on the 19th of April, 1861, contains the following:

"If, with the intention of violating this blockade, any vessel whatever attempts to enter or to leave these ports, she shall be notified by the commander of one of the ships of the blockading squadron, who shall record in the ship's journal the fact, and the date of the notification."

Hayti receives, and holds, her customs, her legislation, and her jurisprudence from France. The treaty of the 3d of November, 1861, has established a communion of international principles between her and the United States. How, then, can she escape from the obligation of adopting the rules and principles which obtain in both countries?

A *viva voce* announcement of the blockade must assuredly be received with much more favor than signals made at a great distance which, possibly, may not be remarked, and the meaning of which may need interpretation. For this reason, the conseil d'état of France, on the 17th of July, 1843, pronouncing as a prize court (tribunal des prises) declared null and void the capture of the *Joséphine* by the *Eclair*, a ship of the blockading squadron, because, in that particular case, although it had been shown in the report prepared by the commander of the *Eclair* that notification of the blockade had been given verbally to the captain, on the day preceding the capture, it was not shown at the investigation that the captain of the *Joséphine* had understood the notification, nor that the commander of the *Eclair* had supplemented this deficiency by registering the notification on the muster-roll of the captured vessel.

Another observation will demonstrate the emptiness of this pretension of the judgment of the prize court of Port au Prince to make the signal of the *Dessalines* pass for the special notification of the blockade. What is to be obtained by these signals? At the most, they invite the passing vessel to stop and to await the cruiser who makes the signals. This is only in order that (if the neutral vessel obeys the summons and allows the cruiser to reach her) the officer of the blockading ship should have the occasion and the means of giving the notification required. The prize court of Port au Prince have, therefore, confounded two things absolutely distinct and different.

It is not to be thought that a special notification would have been an idle formality. The *Haytian Republic* could not have been able otherwise to know of the existence of the blockade. On this point Mr. John D. Metzger wished to have the fullest knowledge, and he applied to official sources, demanding to be informed if the decree

of the 15th of October, proclaiming the blockade, had been published at Jacmel. A direct and formal reply would have been of great value to him, but the councilor of the interior studiously avoided giving him such a reply, stating simply, in his dispatch of the 30th October, that Jacmel being in a state of rebellion against the Government, no acknowledgment of the receipt of the decree had been made. It is easy however to fill up the gap which ministerial discretion has left open. The decree of the blockade was published in Le Moniteur of the 18th of October, 1888. This journal not having been sent to the provinces, except by the ordinary courier on Saturday, it was therefore on the 20th that it left the capital. Now the *Haytian Republic* spent the 17th at Miragoâne, the 18th at Cayes, the 19th at Jacmel. She had been in advance of the decree in each of the cities which she visited before returning to St. Marc; therefore she was necessarily ignorant of the blockade. From that time she was in the position contemplated by article 18 of the treaty of 1864 between the United States and the Republic of Hayti, to wit:

"ART. 18. As it frequently happens that vessels leaving for a port or a place belonging to the enemy, without knowing that these points are besieged, blockaded, or invested, it is here agreed that every vessel that shall be found in such case shall be sent away from these ports or places, but shall not be detained, unless after notice of such blockade or investment, the same vessel should attempt again to enter."

Thus, supposing that the *Haytian Republic* had been reached by the *Dessalines*, she could not have been legally captured in attempting to enter the port of St. Marc; she could not have been even momentarily stopped, except for the purpose of giving notification of the blockade. It is therefore conclusive, that the *Haytian Republic*, who had entered into the harbor before the *Dessalines* had arrived to forbid access to it, and above all, before she had received a special notification of the blockade, has not violated the obligations of neutrality; on the contrary, she has exercised and enjoyed the right of free commerce.

But it was not in attempting to enter a port declared to be blockaded that the *Haytian Republic* was captured; it was in leaving the port. If (as we think we have demonstrated) this vessel has exercised her right in entering this port, because the blockade had not been notified to her (a fact which is clear, since she had never been in a position to know it), the *Haytian Republic*, as regards her leaving the port, was, to all intents and purposes, in the same situation as a vessel on station. In such a case, before the capture can be valid, it is necessary that the commander of the blockading forces should previously signify the decree of the blockade to the authorities of the place whose communications he has been commissioned to intercept.

"This is," says Calvo, "a preliminary rigorously exacted, and the omission of which nullifies absolutely the capture of vessels leaving a port." (See Calvo, vol. 4, § 2580.)

A delay must be accorded for the free retirement or exit of neutral vessels. Such was the principle followed by Denmark in 1848, by England and France during the war in the East, by France during her struggle with Germany in 1870, and by the United States of America in 1861.

In our particular case no notification had been made to the authorities of St. Marc. They had not been able from that time to notify the vessels lying in the port, and the *Haytian Republic*, who had no knowledge of the blockade when she entered that port, was equally ignorant of it when she attempted to leave.

There are three versions of the capture:

(1) According to the copy of the report of Mr. Gaillard, the commander of the *Dessalines*, which has been delivered to Mr. John D. Metzger by the prize court, this officer, speaking of the Sunday morning when the *Haytian Republic* weighed anchor to leave the bay, said: "I sounded the whistle to her; I ran down towards her; seeing that she would not stop I fired a cannon, and it was not until then that she changed her course."

(2) By the report published in "Le Progrès," and which Mr. Gaillard has not disavowed, the commander said: "We blew the whistle and fired a cannon, so as to oblige her to surrender at our demand. At last the *Haytian Republic*, for it was certainly she, stopped."

(3) Mr. Solon Ménos, who repeats a recital of the same commander, says in his deposition:* "The *Dessalines* cruised before the blockaded port to arrest the refractory boat on her return; the next day, very early in the morning, the capture took place."

By this deposition, one does not know what were really the circumstances which accompanied the capture. But whether one or the other text of this report is accepted, the commander of the *Dessalines* recognizes that after the blowing of the whistle and

* Nothing can more clearly show the character of Haytian justice than this deposition. Mr. Solon Ménos, who was all the while in Port au Prince, was called upon to testify, and was permitted to testify to an occurrence which took place at St. Marc whilst he was in Port au Prince. What right had this man to testify to what he did not know? This alone proves the predetermination of the prize court to convict the *Haytian Republic* whether she was guilty or not.

the report of the cannon, the *Haytian Republic*, who had good reason to flee on account of the character of her passengers, stopped, however, or what is tantamount to that, changed her course doubtlessly so as to meet the *Dessalines;* that, in a word, she did not attempt to escape from the *Dessalines*. Can it be said, then, that there was an attempt to violate the blockade? Assuredly not, and this conclusion has the respectable authority of Calvo in favor of it. He says: "The fact of not stopping immediately after the signals and invitation have been made is not to be regarded as an attempt to violate the blockade." (See Calvo, vol. 4, § 2626 in fine.)

VII.

The blockade must be real and effective; otherwise neutral vessels are not obliged to respect it. The Haytian authorities seem to persuade themselves, by dint of repeating that the blockade of St. Marc is effective, that finally the use of the word will dispense them from the necessity of having that which it designates. But the effectiveness of a blockade is something besides the proclamation and notification of any kind which may be made concerning it. According to the maritime convention of 1801 between Great Britain and Russia, which convention is the basis of the modern doctrine, no port is accounted as blockaded except one into which, owing to the measures taken by the powers attacking with ships, either stationed or sufficiently near, there is evident danger in entering. Civilized powers agree in recognizing the principle that a blockade, to be effective, must be maintained by a force really sufficient to prevent access to the hostile coast.

The provisional government, by their decree of the 15th October, 1888, have placed *simultaneously* in a state of blockade the ports of St. Marc, Gonaïves, and Cape Hayti. To perform the service of the blockade they had only two war ships, the *Dessalines* and the *Toussaint L'Ouverture*, not having yet armed with cannon the merchant vessels which they have since employed. How can they pretend, without shamelessly inviting ridicule, that two ships were a force sufficient to prevent access to three different ports at the same time, especially when, as in the case under consideration, these three ports are situated at a great distance from each other and when the configuration of the coast to be guarded prevents these ports from being in view at the same time? In this way the *Dessalines*, not being obliged to remain fixed (on station), was not guarding the port of St. Marc when the *Haytian Republic* presented herself. According to the "report," she was at the point of the "Grande Salines," or "Grande Pierre Baie," a distance of 6 miles from St. Marc; that is to say, very far beyond the "Table à Diable," on the route to Gonaïves. How, then, was the entrance of the port of St. Marc intercepted by her? It is necessary for the blockading ships either to station themselves before the port or at least to be sufficiently near to it. But the *Dessalines* had placed between St. Marc and herself a promontory (the "Table à Diable") from which she was distant 6 miles. It was from this great distance that she started when she saw on the horizon the uncertain smoke of the *Haytian Republic*.

There must be evident danger in entering. But the *Dessalines*, at a distance of 6 miles north of the bay, with her slowness of motion and her cannon of feeble projectile powers, did not constitute an "evident danger" for a vessel which was entering under the southern point or "Point of St. Marc." From one point to the other there is a distance of 10 miles or 18,520 meters. Let us suppose that, in returning, the war ship had had time to arrive at the "Table à Diable;" even then it is impossible that her cannon, which threw 3,500 meters, should have menaced efficaciously, or in an evident manner the vessel entering at a distance of about 18,000 meters, under the opposite promontory. Thus Commander Gaillard, who, with a suspicious complacency, curtails the distance, has not been able to prevent himself from admitting, at least, that his sixth and last cannon-ball, which could not reach his object any more than the others, had fallen a quarter of a mile short of the *Haytian Republic*.

Neither is it held that the capture effected on the 21st October furnishes an argument in favor of the effectiveness of the blockade. Not at all. According to the practice of maritime nations, attested to by Calvo, the accidental capture of a neutral vessel by a cruiser does not suffice to render a blockade effective. (See Calvo, vol. 4, § 2578.)

It is, therefore, nothing but an empty semblance of a blockade which they had placed before the port of St. Marc.

One last observation. They have severely blamed Captain Compton for having refused to reply to questions customary on similar occasions and to show his papers, and they have quoted in this connection the case of the *Perle*, a French corvette, who, for the same reason, captured two American brigs in the month of March, 1839; but they have omitted to declare the conclusion of that affair, which is that, on the demand of the commander of the United States squadron, the French admiral ordered the surrender of the captured vessels to their owners. (Calvo, vol. 4. § 2683.)

VIII.

Political passions have the disastrous effect of obscuring the soundest intellects and of untuning the most upright consciences. To this must be attributed the unjustifiable conviction and judgment pronounced against the *Haytian Republic*, her captain, and owners. But Mr. John D. Metzger, who can not be expected to place the great interests which he represents at the discretion of his opponents, protests against the conviction and judgment, because it is the work of a jurisdiction illegally instituted; because this jurisdiction has disregarded his indisputable right to a lawful defense; because under the circumstances of the case no cause of action exists for the transportation of contraband of war, of soldiers, and adherents of the insurrectionists; because the blockade of St. Marc had *not* been notified, either to the captain of the *Haytian Republic* or to the authorities of the place said to be blockaded; because, in fine, this blockade was not effective.

JOHN D. METZGER,
Agent Hayti Mail Steam-ship Line.

PORT AU PRINCE, *November* 12, 1888.

ANNEXES TO MR. METZGER'S PROTEST.

(1.) *Mr. Metzger to Mr. Léon.*

PORT AU PRINCE, *November* 8, 1888.

DEAR SIR: At last this afternoon I have received the copy of the report of Commander Gaillard, but I am not able to conceal my astonishment on discovering that the tenor of this important document is not at all the same as that of the document published by the same Commander Gaillard in Le Progrès of the 20th ultimo.

I am desirous also of having copy of the judgment pronounced on my petition for a delay, which judgment I beg that you would have the goodness to cause to be delivered to me without further delay. In the mean time, believe me to be, dear sir, your very devoted servant,

JOHN D. METZGER.

EMANUEL LÉON,
Advocate of the Government, Present.

N. B.—To this letter, which points out a fact calculated to destroy the authority of the judgment of the prize court rendered the 31st October last, the advocate of the Government has been unable to reply.

(2.) *Text of the strange judgment in which the petition of Mr. John Metzger, praying for the legal delay, was rejected.*

Liberty. Equality. Fraternity.

REPUBLIC OF HAYTI—IN THE NAME OF THE REPUBLIC.

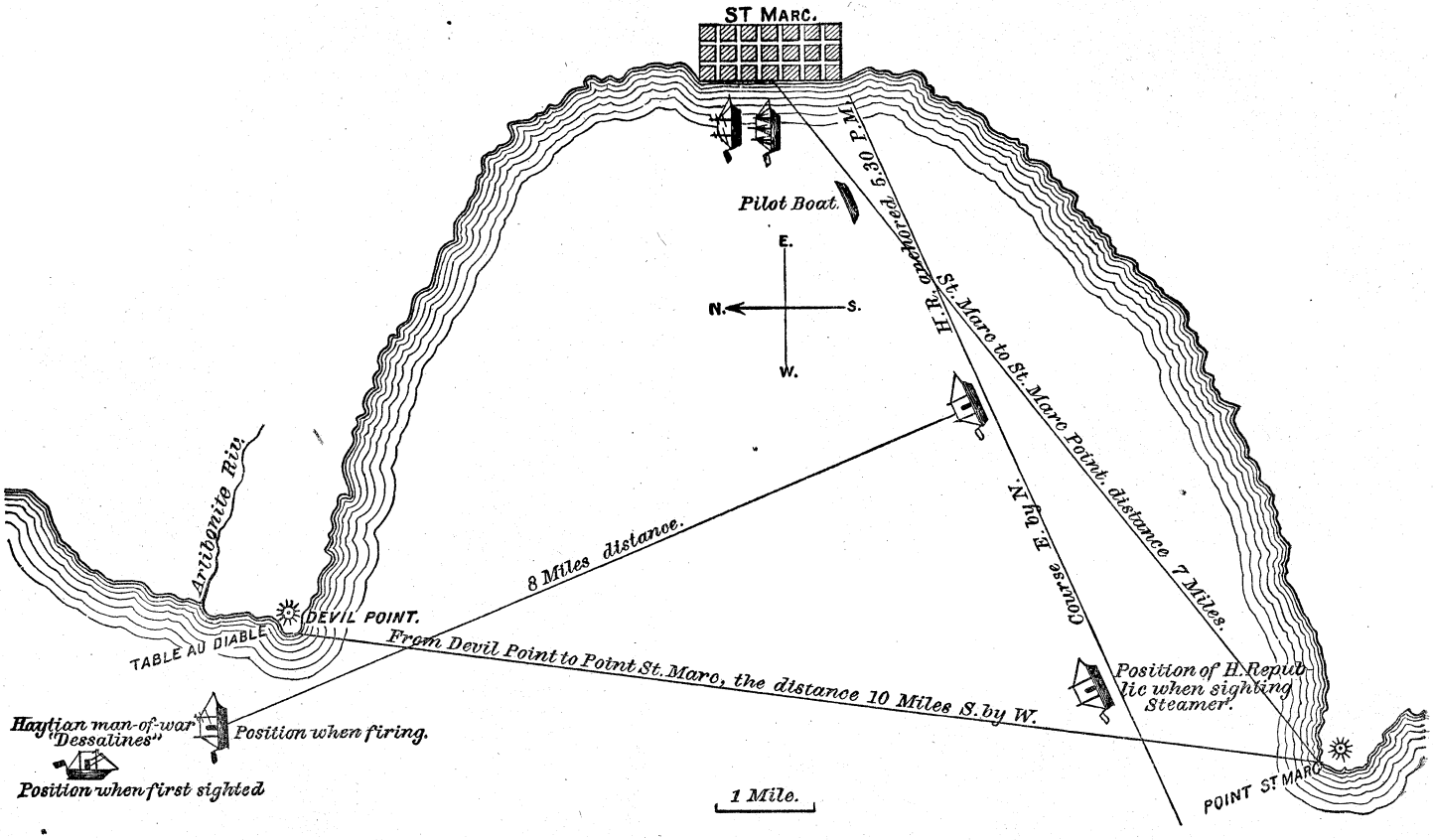
The prize court sitting at Port au Prince and competently assembled in the rooms of the commercial court of this city has, in public session, rendered the following judgment:

Mr. Emanuel Léon explained the affair of the capture of the steamer *Haytian Republic*, and Mr. John D. Metzger, agent of the Hayti Mail Steam-ship Line, replied by the following counter-plea:

"The undersigned, agent of the Hayti Mail Steam-ship Line, has the honor of praying the prize court for a postponement of the affair of the *Haytian Republic* to Saturday, the 3d November (unless there occur an unforeseen prevention, which will be satisfactorily explained), seeing that, in an affair so important, it is impossible for him to prepare his means of defense in the brief delay of one full day only, the Government of Hayti, who is the chief witness for the defense, having been the first to fail in giving him some simple information which he has demanded of them since Saturday, the 28th instant.

"JOHN D. METZGER.

"PORT AU PRINCE, *October* 30, 1888."


ST MARC.
Pilot Boat.
E.
N.
S.
W.
H.B. anchored 6.30 P.M.
St. Marc to St. Marc Point, distance 7 Miles.
Course E. by N.
Artibanite Riv.
DEVIL POINT.
TABLE AU DIABLE
8 Miles distance.
From Devil Point to Point St. Marc, the distance 10 Miles S. by W.
Haytian man-of-war "Dessalines"
Position when firing.
Position when first sighted
Position of H. Republic when sighting Steamer.
1 Mile.
POINT ST MARC

Mr. Léon opposed the petition for a delay.

On the petition for a delay made by Mr. John D. Metzger, agent of the Hayti Mail Steam-ship Line:

Having seen the counter-plea *ad hoc* deposited by Mr. John D. Metzger in the aforesaid capacity;

Having heard Mr. Emanuel Léon, prosecuting officer, in his verbal opposition;

Considering that the *Haytian Republic* arrived captured in our waters Sunday, the 21st instant;

That from the next day the preliminary investigation of her affair had commenced;

That Mr. John D. Metzger had a knowledge of it;

That therefore he had the time necessary to prepare his defense;

Considering, besides, that in such cases the process is summary;

That by reason of the importance of the interest involved it is necessary to arrive at a decision promptly;

For these reasons the court, after having deliberated on them, rejects the petition for a delay made by Mr. John D. Metzger in his aforesaid capacity, and orders the continuation of the affair.

Pronounced by us, Hugon Lechaud, president; Maximilian Laforest, Justin Dévot, Jacques Nicolas Léger, Dantès Fortunat, aided by Mr. Christian Duchatellier, clerk, this 30th October, 1888.

It is written and ordered, etc.

H. LECHAUD.	MAX LAFOREST.
JUSTIN DÉVOT.	J. N. LÉGER.
DANTÈS FORTUNAT.	CH. DUCHATELLIER.

Thus it is because the process is summary and because Mr. John D. Metzger had a knowledge of it before the summons; it is for these reasons that his petition for a delay was rejected. Are these judges of the prize court ignorant of the fact that the summary character of a process, and above all when it is connected with or results from a criminal investigation, does not permit a judge to shorten the delay which the law grants to the defendant to prepare his defense? It is an illogical pretense to object to this defendant that the investigation of his affairs having commenced on the day following the capture he had time to prepare his defense. Not at all. The delay prescribed by law for one to prepare his defense begins only from the day when he is summoned, because it is by this act only that the party knows both the irrevocable intention of judging the affair and the terms of the accusation. The time which precedes the summons has never entered into the computation of the delay allowed for the defense.

A view of the Bay of St. Marc (according to authentic information) is herewith given, showing the respective positions of the ships *Dessalines* and *Haytian Republic*, t 5 o'clock on the afternoon of the 20th October, 1888.

No. 679.

Mr. Thompson to Mr. Rives.

No. 116.] CONSULATE-GENERAL OF THE UNITED STATES,
Port au Prince, Hayti, November 19, 1888. (Received December 1.)

SIR: Owing to the death of one of the seamen on board of the steamer *Haytian Republic*, captured by the Haytian war vessel on the 21st ultimo, and now an international question, and being aware that the settlement of such case may be after an interval of more or less time, also fearing that so many men being clustered on board of a ship so near the land sickness may take root, as the heat is unusually severe this fall, after consultation with Captain Ramsay, of the United States ship *Boston*, and with Dr. J. B. Terres, our vice-consul-general, on these points, I determined, since the presence of the crew was not essential here, to obtain for them passage by the first outgoing ship to the United States, and to-day have done so, booking them on the Dutch steamer *Prins Frederick Henricks*, at the reduced rate of $30 each, and have drawn a draft on the Treasury Department for $720, the passage for the twenty-

four seamen. Captain Compton will remain in Port au Prince with the agent of the company.

I inclose herein, marked A and B, copies of letters received by me from Captain Compton, telling of the death of one his crew. I also transmit, marked C, copy of the names of the seamen shipped, as taken directly from the shipping articles made out in the State and county of New York, E. W. Kingsbury, United States shipping commissioner.

I have, etc.,

JOHN E. W. THOMPSON,
Consul-General.

[Inclosure 1 in No. 116.]

Captain Compton to Mr. Thompson.

NOVEMBER 15, 1888.

SIR: It is my painful duty to report to you the death of seaman Neil Olsen, who died last night at 8.20 p. m. of fever, after an illness of four days. Everything was done for him that was possible on board, and he appeared to be getting better until yesterday, when he was taken with a relapse and died unconscious. I had sent for a doctor by pilot in the afternoon, but none came, and I have had no communication with any agent since Monday.

Please notify me what you wish to have done with the dead man's effects.

Respectfully, etc.,

D. T. COMPTON,

[Inclosure 2 in No. 116.]

Captain Compton to Mr. Thompson.

NOVEMBER 15, 1888.

SIR: I respectfully request that you call the attention of the commander of the *Boston* to our situation at this moment. We are here and allowed no communication with the shore. Can send no letters on shore, nor allowed to send a boat on shore.

One man is dead with fever, and the chances are that others will go the same way.

If I have done anything against the laws I am willing to take my punishment, but it seems hard that my whole crew should lay here and die like dogs without any assistance, and an American man-of-war in the harbor.

Therefore I request that this guard be taken off the ship, and that we be towed to the outer harbor, where the lives of my crew will be in less danger.

Respectfully, etc.,

D. T. COMPTON,

[Inclosure 3 in No. 116.]

List of seamen of steam-ship Haytian Republic.

W. Smith.
L. A. Cates.
Edward Haley.
John A. Nelson.
L. Larsen.
Martin J. Larsen.
Charles Hinricks.
C. B. Malcom.
A. J. Blaisdell.
J. G. Percy.
William Cushing.
James L. Donavan.
William Grant.
James E. Whitten.
Thomas Kane.
Joseph Kelley.
James Healey.
S. N. Simmons.
William Curvillay.
John Francis.
A. J. Smallwood.
J. C. Roberts.
Augustus Cobbam.
James Moore.
Patrick Grant.

No. 680.

Mr. Bayard to Mr. Thompson.

No. 134.] DEPARTMENT OF STATE,
Washington, November 20, 1888.

SIR: I inclose copy of a letter from Mr. W. C. Haskins, of Boston, managing owner of the schooner *William Jones*, in relation to the arrest of that vessel while on a voyage from Boston to Gonaïves, Hayti, by Haytian man-of-war, on the ground that the latter port was blockaded.

I am, etc.,

T. F. BAYARD.

[Inclosure in No. 134.]

Mr. Haskins to Mr. Bayard.

BOSTON, *November* 14, 1888.

SIR: The schooner *William Jones*, Capt. R. S. Collins, sailed from the port of Boston October 4, 1888, loaded with a general cargo, such as fish, pork, flour, etc., for the port of Gonaïves, in the island of Hayti, West Indies. On the 20th of October, about 5 o'clock p. m., the vessel was spoken by a Haytian man-of-war, and was told that Gonaïves was blockaded and that the vessel would have to go to Port au Prince. At about 6.30 o'clock a. m. October 21, the *William Jones* was spoken again by the same man-of-war, asking for the *William Jones's* hawser, but was told by the captain that the *William Jones* had no hawser to tow by. At 7 o'clock a. m., the same 21st October, the same man-of-war came up again and ordered the *William Jones* to heave to and he would take the *William Jones's* hawser, but was told again that the vessel had no hawser, and Captain Collins then asked if the man-of-war had one, and was answered no. The man-of-war thereupon sent eleven armed marines aboard the *William Jones*, and she proceeded towards Port au Prince. At 10.30 o'clock a. m. the man-of-war came up again and ordered the *William Jones* to heave to and he would send his hawser aboard. This was done and hawser sent aboard and the man-of-war took the *William Jones* in tow and at about 9 o'clock p. m. was anchored in Port au Prince Bay, with eleven marines aboard. On Monday, October 22, at about 4 o'clock p. m., the American minister came on board to see what the trouble was, and found no fault on the part of the *William Jones*.

Tuesday morning, October 23, the chief of the navy of Hayti came on board. Captain Collins asked him of what he was accused; his reply was, "For trying to run the blockade and having arms and ammunition on board." These accusations were then and there declared false by Captain Collins to the chief of the Haytian navy, and the captain also informed him he should hold the Haytian Government responsible for the damage, as his cargo was perishable, and for demurrage.

The schooner *William Jones* is an American vessel and registered at the port of Boston. The captain had no notice of any blockade at port of Gonaïves. The vessel obeyed all orders of the man-of-war, and when taken in tow was about 17 miles distant from land.

The writer is managing owner of the *William Jones*, and has no knowledge of any arms or ammunition being aboard, and believes there were none; nor at the time of the clearance and sailing of the *William Jones* of any blockade on the Haytian coast. His knowledge of the facts above detailed is derived from letters received from captain of the *William Jones*.

The writer will cause full particulars to be furnished as this case may require, and now requests that his claim may be placed on file and his interests and those of the schooner *William Jones* may be fairly and fully protected, and that the Haytian Government may be required to answer in just damages for the injury caused by its unlawful proceedings with said vessel and her cargo.

Trusting this matter may have due attention, I remain, etc.,

W. C. HASKINS.

No. 681.

Mr. Thompson to Mr. Bayard.

No. 223.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 24, 1888. (Received Dec. 10.)

SIR: I inclose herein the duplicate of a protest made by Capt. Angus McRitchie, master of the American schooner *Winnie Lawry*, against the authorities of Port au Prince, for refusing his vessel a clearance to the port of Port de Paix, where he was chartered to take a cargo of log-wood to Philadelphia, Pa.

I may here inform you that the notification of the blockade of Port de Paix was received at this legation on the 30th ultimo, and it stated therein that by a decree of the National Assembly of Constituents, dated October 26, 1888, such port was placed under blockade. Captain McRitchie was refused clearance the 25th ultimo, and leaves here this evening for New York direct, in ballast, having been unable to get cargo.

I have the honor to request your opinion and instructions in this case.

I am, sir, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 223.]

Protest of Captain McRitchie.

PORT AU PRINCE, HAYTI,
October 27, 1888.

I, Angus McRitchie, master of the schooner *Winnie Lawry*, of Boston, Mass., recently arrived in this port of Port au Prince, from New York, do hereby enter a formal protest at the consulate-general of the United States of America at Port au Prince, under date of the 27th day of October, A. D. 1888, against the authorities of Port au Prince, or the Government of Hayti, for the refusal on their part to give a clearance to said schooner *Winnie Lawry* to the port of Port de Paix.

The said schooner *Winnie Lawry* having been chartered on September 8, 1888, to take a cargo of logwood from Port de Paix, Hayti, to New York, by Messrs. H. Kainer & Co., this cargo was ready for shipment, according to advices, in the month of September last, and is still awaiting shipment.

Whereas, on the 25th day of October, application was made to the custom-house at Port au Prince for a clearance of the said schooner *Winnie Lawry* from Port au Prince for Port de Paix, and such clearance being refused, by such refusal on the part of the authorities the master of the said schooner *Winnie Lawry* is unable to fulfill his agreement according to charter-party drawn up and signed at the date of September 8, 1888, whereby he incurs, first, the loss of his freight, amounting to the sum of $3,000; second, the liability of an action at law on the part of Messrs. H. Kainer & Co. for the non-fulfillment of his contract; and, third, the loss of the expenses of his vessel for each and every day of detention since October 25, instant, when, having finished discharging his cargo at Port au Prince, he has been ready and willing to sail for Port de Paix, amounting to $100 per day.

With these statements of my case I hereby submit my claim, as a citizen of the United States of America, looking to our Government for fair and proper protection.

Respectfully, yours,

A. MCRITCHIE.

LEGATION OF THE UNITED STATES.

Sworn to before me this 27th day of October, 1888.
In witness whereof my hand and seal of the legation at Port au Prince.
[SEAL.]
JOHN E. W. THOMPSON.

No. 682.

Mr. Thompson to Mr. Bayard.

No. 225.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 24, 1888. (Received Dec. 10.)

SIR: I have the honor to transmit, as herein inclosed, all of the documents on which the "prize-court" (?) of Port au Prince based its decision of condemnation of the steam-ship *Haytian Republic*, as per list of inclosures.

During the visit of the U. S. S. *Boston* Captain Ramsay and myself consented to two conferences with General Légitime and Mr. Margron, his counselor of foreign affairs, but while they would not admit our argument they signally failed to refute it. My No. 222 shows that the case is in abeyance, awaiting the decision of the department, while the inclosure "protestation against the condemnation of the steam-ship *Haytian Republic*" in such dispatch treats on many points that were brought out on the so-called trial.

Admit that the *Haytian Republic* brought arms and ammunition from New York to Cape Haytien (which she did not do), and according to law she had every right so to do.

Admit that the *Haytian Republic* carried troops from Cape Haytien to Gonaïves and from Port de Paix and Gonaïves to St. Marc. If she was engaged in contraband traffic she, to be guilty, must be caught *in delicto*.

In our conferences it was pointed out by the authorities that the forcing of the blockade was of secondary consideration, although it was the sole charge made at this office against her. They admitted that the Haytian war vessel was ordered to pay strict attention to the actions of the *Haytian Republic* long before her capture; and it is noticeable that in his report the commander of the *Dessalines* gives no reason why he captured the *Haytian Republic*. From first to last the testimony is absolutely worthless, none of the witnesses appearing to know anything important as evidence in the case, while Mr. Solon Ménos was not subpœnaed. He is a constituent and can not be called as a witness unless he first signified his desire to be called, and in this case he appeared simply because of a pre-arranged plan for him to bring in as evidence the letter given him by the French minister, who appeared greatly interested in the affair; it is perfectly clear from his own words that Mr. Ménos knew nothing, personally, about the case.

There is no doubt but that the *Haytian Republic* was condemned in the minds of those interested from the moment of her entry into this harbor; and after the action taken and condemnation, owing to the political situation of Hayti, a belief became current in authoritative circles that if any weakness was manifested, unless they were made to do so, their political cause would suffer; and being looked upon in derision by their enemies, a reaction might take place, pushed on by their lukewarm friends.

Hoping to have decisive instructions on this case, presuming the report of the *Boston*, with my dispatches and their inclosures, have given all details in the premises,

I am, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 225.—Translation.]

Minutes of the prize court.

Before us, Justin Dévot and Jacques Nicolas Léger, members of the prize court, delegated to investigate the case of the steamer *Haytian Republic*, assisted by Mr. Felix Richiez, commissary of the Government near the civil court of Port au Prince, by Mr. Charles B. Martin, sworn interpreter, and by Mr. Christian Duchatellier, clerk *ad hoc*. The two last took the oath prescribed by law. Appeared on board of the *Haytian Republic* this 22d day of October, 1888, Mr. David T. Compton, captain of the said vessel; aged forty-six years; born at Boston (United States of America), who was interrogated as follows:

Q. In what passage were you on Saturday between 4 and 5 o'clock in the afternoon?—A. I was entering into the bay of St. Marc, returning from Jacmel.

Q. Who had sent you to Jacmel?—A. I had 75 tons of merchandise and the mail, all expedited from New York.

Q. What are the other ports of Hayti that you had touched at in coming from New Yook?—A. Cape Haytien, Port de Paix, Gonaïves, St. Marc, Miragoâne, Aux Cayes, Jacmel.

Q. What did you take from the Cape for Gonaïves?—A. The correspondence and passengers for Gonaïves.

Q. How many passengers from the Cape to Gonaïves?—A. About two hundred, whom I judged to have been Haytians, without being certain of their nationality—a half dozen with rifles.

Q. Does your register bear the names of these passengers?—A. I have not their names, but the agent at the Cape has them.

Q. Those passengers, did they not have tickets?—A. There was one ticket for all.

Q. Is it usual with the company to give one ticket for so many passengers?—A. Yes; excepting for first-class passengers.

Here the interrogated refused to answer further questions without first receiving instructions from his minister concerning the matter.

On the observation being made to him that his minister had nothing to do with the questions for the present, and that it had reference to an investigation purely judicial, the interrogated persists in his refusal.

Requested to sign the present minutes, he has done so with us.

Seven words crossed *nul*.

CH. DUCHATELLIER.
D. T. COMPTON.
FELIX RICHIEZ.
J. N. LÉGER.
JUSTIN DÉVOT.

CHARLES B. MARTIN,
Interpreter.

The year 1888 and the 23d of October. Before us, Justin Dévot and Jacques Nicolas Léger, members of the prize court delegated to investigate the case of the steamer *Haytian Republic*, assisted by Christian Duchatellier, clerk *ad hoc*, appeared in virtue of our letter of this day addressed to him, Mr. J. D. Metzger, who was interrogated as follows:

Q. What are your names, surnames, age, profession, place of birth, and place of residence?—A. I am named John D. Metzger; aged thirty-nine years; born in Germany; residing in Boston, and dwelling at Port au Prince; agent of the Hayti Mail Steam-ship Company.

Q. What is the nationality of the steamer *Haytian Republic*?—A. American.

Q. What is that of the company?—A. American, also; having its principal office at Boston.

Q. What is the usual itinerary of the steamers of this line?—A. The steamers leave New York or Boston for Turk's Island and all the open ports of the Republic of Hayti both in going and in returning.

Q. What are the ports where the steamer touches most generally?—A. They are the ports of Cape Haytien, Port de Paix, Gonaïves, St. Marc, Jérémie, and Aux Cayes.

Q. Does it touch each time at Port au Prince?—A. No; only at times.

Q. Do they go sometimes to Miragoâne as well as to Jacmel?—A. They do sometimes.

Q. When the steamer leaves New York does the company notify you of the itinerary that she will follow during the voyage?—A. Very rarely; usually the captain follows the instructions received directly from the company without giving me knowledge thereof.

Q. Did they write to you this time to tell you the date of the departure of the *Haytian Republic* and the itinerary that she should follow?—A. Not at all; generally the steamer bears her own news.

Q. Is this a line that makes regular trips?—A. The steamers do not leave at a fixed date either the ports of the United States or those of Hayti, but they touch regularly the island of Hayti on on average each steamer every six weeks.

Q. How long does each steamer remain in Hayti?—A. On an average from fifteen days to three weeks.

Q. How many steamers?—A. Two; of which one is chartered in the United States, that is the *Alert;* the other, the *Haytian Republic,* belongs to the company.

Q. What is the usage of the company in what concerns the delivery of tickets for passage?—A. Ordinarily the party presents himself at the office of the agency to get his ticket, but they never have refused voyagers who regulate their passage on board.

Q. Do you give at the agency collective tickets; that is to say, one single ticket for several persons?—A. I have often delivered collective tickets for families. I have never had occasion to give any for a group of men.

Q. When you deliver a collective ticket does it bear the names of all the persons who are to be benefited thereby?—A. Not necessarily; but the ticket ordinarily announces the number of persons who form the suite of the head of the family whose name is indicated.

Q. If instead of a family should ten friends, for example, present themselves at the office to take a collective ticket, would not the company be obliged to designate them by their names on the ticket?—A. I do not think so; however, the case is not foreseen in the regulations of the company.

Q. In such case what means of control has the company, and does it not violate the police regulations in not designating these passengers by their names?—A. That concerns the captain, who can at any time, and should, control the tickets emitted by the agency. As for what regards the police he is obliged to furnish the names of the passengers at each port where it is demanded of him. The captain, however, is bound to furnish a list of passengers only at the port where he lands them.

Q. In the case of a collective ticket where the names of the passengers are not mentioned, how can the captain remit the names of the passengers?—A. The captain can make out a list by interrogating the passengers on their names.

Q. Are you aware of what happened to the steamer *Haytian Republic,* belonging to the line of which you are the agent?—A. Notwithstanding my efforts at the office of the port first, and afterwards at the legation of the United States, the chief of which on his part wrote to the minister of foreign relations, I have not been able up to the present to have any communication with the vessel in question. In consequence I am not aware of what has happened to the steamer *Haytian Republic* excepting from the rumors current in town.

Q. Will you have the kindness to tell us what you have heard said on this subject?—A. I will say but one thing; that is, that I have heard said that the *Haytian Republic* had violated the blockade of the port of St. Marc.

Q. Have you not heard it said that the steamer had taken from the Cape a delegation of insurgents, which it carried, notably to Miragoâne, to Cayes, and to Jacmel, to put out their revolutionary manifestoes and to try to raise those cities?—A. What I hear in the public on the subject is so vague that I do not judge it worthy of giving it any affirmation whatsoever.

Q. You are not ignorant, however, that there are on board men that the steamer took on board at the Cape?—A. I am ignorant thereof, only I have been told that there is on board a group of Haytians.

No further interrogation, and after reading, the respondent being requested to sign, did so with us.

JUSTIN DÉVOT.
J. N. LÉGER.
JOHN D. METZGER.
CH. DUCHATELLIER.

The year 1888, and the 23d of October, at 4 o'clock in the afternoon, conformable to the letter that we have addressed to the captain of the steamer *Haytian Republic,* we, the undersigned, Justin Dévot and Jacques Nicolas Léger, members of the prize court charged to investigate the affair of the said steamer, we went on board of his vessel, assisted by Mr. Christian Duchatellier, clerk *ad hoc,* to continue the investigation commenced yesterday and proceed to all the acts necessary of a nature to enlighten the court called to pronounce on the capture of the said steamer. We found Mr. David T. Compton, captain of the *Haytian Republic,* who declared having received our letter of this morning in presence of the minister of the United States of America; that he persists in his refusal to communicate to us the ship's papers and documents, to answer to the questions addressed to him, or to lend himself in any manner whatever to the acts of the investigation; informed us that he referred to the minister of his

country for the settlement of the question. The observation being renewed to him that the affair was not one to be settled through diplomacy, being of the competence of the jurisdiction of prizes, that alone can decide in one sense or another; he persists in his manner of seeing; and requested to sign, he refused to do so.

JUSTIN DÉVOT.
J. N. LÉGER.
CH. DUCHATELLIER.
E. ROUMAIN.

The year 1888, the 23d of October, 3 o'clock in the afternoon, before us, Justin Dévot and Jacques Nicolas Léger, members of the prize court charged to investigate the affair of the steamer *Haytian Republic*, assisted by Mr. Christian Duchatellier, clerk *ad hoc*, appeared the named Victor Jean Pierre, who was interrogated as follows:

Q. What are your names, surnames, age, profession, place of birth, and dwelling place?—A. I am named Victor Jean Pierre, and I do not know my age; born at St. Marc, and dwelling there.

Q. When did you arrive at Port au Prince?—A. Yesterday evening at 10 o'clock.

Q. What was the object of your voyage?—A. I am on a mission.

Q. What have you heard said about the steamer *Haytian Republic*?—A. I was in the country, but Sunday, when I arrived at St. Marc, I heard speak of the captured steamer. They said she had debarked arms on Saturday.

Q. Was this the first time that the steamer had touched at St. Marc?—A. The steamer had made a previous voyage, bringing volunteers coming either from the Cape or from Gonaïves, but these volunteers were not armed.

No further interrogation, and, being requested to sign, declared that he did not know how.

JUSTIN DÉVOT.
J. N. LÉGER.
CH. DUCHATELLIER.

The year 1888, and the 24th of October, at half-past 9 o'clock, before us, Justin Dévot and Jacques Nicolas Léger, members of the prize court charged to investigate the affair of the steamer *Haytian Republic*, assisted by Mr. Christian Duchatellier, clerk *ad hoc*, appeared the named Solon Ménos, who was interrogated as follows:

Q. What are your names, surnames, age, profession, place of birth, and dwelling place?—A. I am named Solon Ménos; aged thirty years; born at L'Anse à Veau; dwelling and residing at Port au Prince.

Q. Will you tell us what you know about the affair of the capture of the *Haytian Republic*?—A. I heard the commandant, Gaillard, give an account of the capture of the *Haytian Republic*. According to this narration, having seen the *Haytian Republic* on the point of forcing the blockade of St. Marc he hastened to make the usual summons in firing a blank charge. But notwithstanding this injunction, the *Haytian Republic* having persisted in her intention of entering the port of St. Marc, Commandant Gaillard declares that he fired six shots at the vessel. The blockade was none the less violated, which caused the *Dessalines* to cruise before the blockaded port to arrest on her return the refractory steamer. The next day early in the morning the capture took place, and the commander of the *Dessalines*, after the requisite formalities for the search, ordered the *Haytian Republic* to Port au Prince, declaring that he wished to convoy her on her route so that he could have the case of the captured vessel decided. Then, on the other hand, I have learned from divers sources equally authorized, that for nearly a month the *Haytian Republic* has been in the service of the insurgents of the North, making the transport of soldiers, volunteers, and ammunition of all kinds, having the character of contraband of war. I have notably had the communication of a letter addressed to Mr. the Count de Sesmaisons by the consul or agent of France at Cape Haytien, establishing that the *Haytian Republic* took, on the date of October 11, 256 armed volunteers for Gonaïves, also 80 boxes of ammunition.

Q. Is that letter still in your possession?—A. Yes.

Q. We desire to take cognizance thereof in its full bearing. Will you communicate it to us?—A. I can only do so in committing an indiscretion, because it is an entirely personal communication that Mr. the Count de Sesmaisons made to me.

Q. An indiscretion being permissible, in the superior interests of justice we persist in our demand.—A. Since you so decide, here is the tenor of the letter.

The original being remitted, we take the following copy:

No. 12.] CONSULAR AGENCY OF FRANCE AT CAPE HAYTIEN,
CAPE HAYTIEN, *October* 13, 1888.

Mr. MINISTER: I have the honor to confirm my letter of the 10th of this month.

Day before yesterday the American steamer *Haytian Republic* took from here for Gonaïves two hundred and fifty-six volunteers well armed with repeating rifles or

Remington rifles. They also embarked eighty boxes of ammunition. Many young men belonging to the best families of this place left on the *Haytien Republic*, or yesterday by land with Mr. Phenix Durand, chief of the volunteers.

The *Haytian Republic* landed here a six-pounder mounted on its carriage. Santini's works are repairing three hundred rifles found in the arsenal here; the greater part of them are Remingtons.

The steamers *Haytian Republic, Geo. W. Clyde, Ascamio*, have brought a great deal of merchandise. The duties sufficiently sustain the committee. The German steamer *Thuringia* has taken nearly four hundred bags of coffee.

The general commanding the arrondissement of Fort Liberty, Dutton Edouard, has been replaced by General Codio Blaise, an old chief of the Cacos.

This morning it was announced that the *Toussaint L'Ouverture* had been at St. Marc, where it had disarmed the troops.

Exchange has fallen to 12 per cent. A great deal of coffee is coming in. Thus the *Thuringia* left yesterday, carrying about four hundred bags, and there are already nearly two thousand bags in the depots.

Please accept, etc.,

H. REINE,
Consular Agent of France.

No further interrogation took place, and being requested to sign with us, after reading, he did so.

Four references in margin good. Six words crossed *nul.*

JUSTIN DÉVOT.
SOLON MÉNOS.
CH. DUCHATELLIER.
J. N. LÉGER.

The year 1888 and the 24th of October, at half past 11 o'clock. Before us, Justin Dévot and Jacques Nicolas Léger, members of the prize court charged with the investigation of the affair of the steamer *Haytian Republic*, assisted by Mr. Christian Duchatellier, clerk *ad hoc*, appeared Mr. Charlemagne, senior, who was interrogated as follows:

Q. What are your names, surnames, age, profession, place of birth, and of residence?—A. I am called Charlemagne, Vital Alcide; aged fifty-four years; born at Basseterre (Guadeloupe); living since 1871 in Hayti; and residing at present at Port de Paix.

Q. How long have you been in Port au Prince?—A. I have been in Port au Prince since Thursday of last week, the 18th instant.

Q. How did you arrive?—A. By a small boat that I took at Miragoâne.

Q. What conveyance did you take to go from Port de Paix to Miragoâne?—A. I took the steamer *Haytian Republic.*

Q. Will you tell us the itinerary that that steamer followed in leaving Port de Paix?—A. We touched at Gonaïves, St. Marc, and then Miragoâne.

Q. Did the steamer, after touching at Gonaïves, return to Port de Paix?—A. No.

Q. Did you go on shore as soon as you arrived at Gonaïves?—A. Yes; to see my daughter, who is there.

Q. Can you say what the vessel debarked at Gonaïves?—A. In regard to packages of merchandise, I do not know; in regard to men, it landed soldiers.

Q. How many?—A. About one hundred and twenty-five, more or less, armed.

Q. Did it take armed men on board at Port de Paix?—A. It was at Port de Paix that those one hundred and twenty-five men were taken on board.

Q. Were they all the men that were on board?—A. Yes.

Q. Did the steamer take armed men at Gonaïves for St. Marc?—A. Yes; but I believe that they were the same men landed at Gonaïves that they embarked for St. Marc.

Q. Where was the steamer to go after leaving Port de Paix?—A. From the itinerary announced the steamer should leave Port de Paix to go to Miragoâne.

Q. Was it from an arrangement with the authorities of Port de Paix that the steamer changed her route?—A. I suppose so.

Q. Where did she land the armed men taken on board at Gonaïves?—A. At St. Marc.

Q. On leaving St. Marc what was there on board in regard to men?—A. The crew.

Q. Was there not on board a delegation from the North and other Haytiens?—A. Not to my knowledge.

Q. Who were the voyagers landed at Miragoâne?—A. Madame Turenne Jean Gilles, whom I accompanied, Madame Girard, and myself.

Q. Do the steamers of this line touch regularly at Port de Paix?—A. Yes; that is their usual itinerary.

No further interrogation took place, and after reading, being requested to sign, he did so with us.

CH. DUCHATELLIER.
CHARLEMAGNE, Sr.
J. N. LÉGER.
JUSTIN DÉVOT.

The year 1888 and the 28th of October before us, Justin Dévot and Jacques Nicolas Léger, members of the prize court charged to investigate the affair of the steamer *Haytian Republic*, assisted by M. Lhérisson Leontes Hérissé, clerk *ad hoc*, appeared Léon Nicolet, who was interrogated as follows:

Q. What are your names, surnames, age, profession, place of birth, residence, and dwelling?—A. Léon Nicolet; aged twenty-five years; employed in commerce; born at Strasbourg; dwelling at Paris, and residing at Gonaïves.

Q. How long have you been in Port au Prince?—A. I arrived yesterday morning, at 8 o'clock in the morning.

Q. How did you travel; by land or by water?—A. First by land to Lully, then by sea to Port au Prince.

Q. Can you tell us at what date the steamer *Haytian Republic* arrived at Gonaïves?—A. She arrived there on the eve of the disembarkment of General Jean Jumeau, in the environs of Gonaïves.

Q. Was the city of Gonaïves already in arms?—A. Yes.

Q. Where did the steamer *Haytian Republic* come from, and what did she bring to Gonaïves?—A. She came from the Cape and landed at Gonaïves with about three hundred armed men, all Haytians.

Q. What did they do with the armed men arrived from the Cape?—A. They were kept some days at Gonaïves, then forwarded by land to St. Marc.

Q. When the steamer left Gonaïves is it to your knowledge that she went to St. Marc?—A. The steamer left Gonaïves to my knowledge going in the direction of the north. In the city it was said that she went to Port de Paix to land her freight; since then she has not returned.

Q. Have you heard speak of the capture of the steamer *Haytian Republic*?—A. I have heard said that she entered the harbor of St. Marc, and that in leaving she received some shots coming from a Haytian war vessel. That is all I know.

No further interrogation. After reading, requested to sign, the respondent did so with us.

L. NICOLET,
J. N. LÉGER,
JUSTIN DÉVOT,
L. LEONTES HÉRISSÉ.

[Inclosure 2 in No. 25. Translation.]

Judgment rendered by the prize court.

Liberty. Equality. Fraternity.

REPUBLIC OF HAYTI—IN THE NAME OF THE REPUBLIC.

The tribunal of prizes, sitting at Port au Prince, and duly installed in the tribunal of commerce of this city, has rendered in public audience the following judgment:

(1) The decree of the provisional government of October 15, 1888, establishing a blockade of the ports of Cape Haytien, Gonaïves, and of St. Marc.

(2) The dispatch of October 16, 1888, addressed by the member of the provisional government in charge of the department of foreign relations to the diplomatic and consular agents at Port au Prince, for the purpose of informing them of the aforesaid blockade.

(3) The reply of Mr. John E. W. Thompson, minister resident of the United States of America, the same day, No. 72.

(4) The report of October 21, 1888, of Mr. Gaillard, commandant commanding the Haytian vessel of war *Dessalines*.

(5) The letter of October 17, 1888, of General Mardi, commanding the district and city of Miragoâne, to the president of the provisional government in charge of the departments of war and navy.

(6) The letter dated at Miragoâne, October 17, 1888, from Mr. Basse Lorme to Mr. F. D. Légitime, member of the provisional government.

(7) The two letters dated at Miragoâne, October 17, 1888, from Mr. Jean Simon to General F. D. Légitime.

(8) The letter dated October 17, 1888, bay of Miragoâne, addressed to the commandant of the department of Miragoâne by the delegation of the central revolutionary committee of Cape Haytien, for the departments of the Northwest, the Artibonite, and of the South, which letter is signed J. Nicolas and J. B. N. Tassy.

(9) The letter of October 19, 1888, addressed by the commandant of Cayes to the members of the provisional government and the letter of October 24, 1888, addressed by the same functionary to the councilor of the department of war and navy.

(10) The letter dated October 18, 1888, addressed to the commandant of the department of Cayes by the delegation from the central revolutionary committee of the Cape, and signed J. Nicolas and J. B. N. Tassy.

(11) The summons given by act of the sheriff, Valcourt Viljoin, of October 27, 1888, and at the request of the government attorney to David T. Compton, captain of the steamer *Haytian Republic*, and to J. D. Metzger, agent for the Hayti Mail Steam-ship Line.

(12) The summons given to the witnesses Solon Ménos, Vital Alcide Charlemagne, and Léon Nicolet.

(13) The treaty concluded between Hayti and the United States November 3, 1864.

(14) The list of passengers who were on board the *Haytian Republic*, and in the bay of Port au Prince.

(15) The proclamation of the 2d of October by which the Cape inaugurates the insurrection.

(16) The proclamation of 3d of same month, of Gonaïves, and that of the 4th of October, of Port de Paix, and that of October 13, of St. Marc, likewise proclaiming insurrection.

The oral depositions and written statements concerning the affair.

Finally, the conclusion, hereto appended, of the government attorney.

Copy of conclusions.

FACTS.

The steamer *Haytian Republic* arrived at the Cape while that town was already in a state of insurrection against the provisional government established at Port au Prince, and landed a piece of ordnance mounted on its carriage, putting herself in the service of the rebels.

This vessel took on board (1) a delegation charged by the central revolutionary committee of the Cape to incite insurrection in the departments of the Northwest, the Artibonite, and of the South; (2) some soldiers and eighty cases of ammunition which she landed at Gonaïves.

From Gonaïves this vessel went to Port de Paix, where she embarked soldiers which she returned to Gonaïves to land; she received still again at Gonaïves troops which she carried to St. Marc, all of these places being in insurrection, and Mr. Compton was not ignorant of it.

From St. Marc the *Haytian Republic* went to Miragoâne. The delegation which she carried tried to stir up that town.

The delegation addressed to the military authorities of the place a manifesto and pamphlets coming from the Cape. The people were deaf to this call to arms. The *Haytian Republic* went to Cayes, where the delegation renewed without success their efforts. Not being discouraged, Captain Compton carried the delegation to Jacmel, a town which they succeeded in arousing to arms.

To insure his success, Captain Compton received on board the constituents of Jacmel, the constituents of Bainet, and some other Haytians, all rebels, to carry them to the north, but on the 15th of October a blockade of Gonaïves, of St. Marc, and of the Cape had been decreed.

When on the 20th of October the *Haytian Republic* came in the vicinity of St. Marc she found there the Haytian man-of-war *Dessalines*. The *Dessalines* made signals, afterwards fired a blank charge; the *Haytian Republic* did not stop. The *Dessalines* fired at her six shots without effect. The *Haytian Republic*, taking advantage of her speed, forced the blockade and entered into the port of St. Marc. She came out on the 21st early in the morning, at which time the *Dessalines* captured her.

Regularly called before the tribunal *des prises*, Captain Compton did not appear, Mr. J. D. Metzger, agent of the company, presented himself alone before the tribunal, but withdrew after the rejection of a demand made by him to put off the case.

LAW.

Concerning the prize.—Considering that in case of war between two states, and therefore in case of insurrection of a portion of a country against the established Government, neutral states and their subjects are bound not to interfere in the struggle, whether it be to aid one of the belligerents or to aid the rebels;

That the neutrals who break this obligation render themselves liable to be treated as enemies, and that this rule applies to ships as to individuals;

That it is generally admitted that the neutral ship which transports either troops, arms, correspondence, or emissaries, who enters in any manner whatsoever into the service of one of the belligerents, or in that of the insurgents, places itself beyond the protection given to neutral property, and can be lawfully condemened and confiscated;

Considering that the American merchant vessel *Haytian Republic* has brought to the Cape a cannon mounted upon its carriage, and that this engine of war was not ordered by the Haytian Government, and that the city of the Cape was already in a state of insurrection;

Considering that she brought munitions of war from the Cape to Gonaïves, a town also in rebellion, and making common cause with the Cape;

Considering that the same ship *Haytian Republic* has, at the same time, transported from the Cape to Gonaïves first, afterwards from Port de Paix to Gonaives, and finally from Gonaïves to St. Marc, the latter port in arms also, troops of insurgents;

Considering that the *Haytian Republic* has not hesitated to receive on board at the Cape a delegation which the revolutionary committee of that town had sent into the departments of the Northwest, the Artibonite, and of the South, for the purpose of spreading the insurrectionary movements inaugurated at the Cape;

Considering that this delegation carried to Miragoâne by the *Haytian Republic* has addressed to the military chief of the city a call to arms, and tried to incite the people of Miragoâne to follow the movements of the Cape; to this effect hostile pamphlets and hostile correspondence, coming from the said steamer, were spread abroad;

Considering that the steamer *Haytian Republic* went from Miragoâne to Cayes where the same efforts were renewed and always with the consent or the complicity of Captain Compton;

Considering that the delegation of the Cape, still on board the *Haytian Republic*, went to Jacmel, which place they succeeded in inciting by the means heretofore cited; that after the success of this criminal maneuver, Captain Compton received on board, for the purpose of transporting to the north, the constituents of Jacmel, the constituents of Bainet, and some other Haytians, all of whom were rebels;

Considering that the delegation of the Cape and the rebels taken at Jacmel are at present on board the *Haytian Republic;*

Considering that without the capture made outside of St. Marc by the man-of-war *Dessalines*, Captain Compton and his vessel would have continued in the service of the insurgents he has thus knowingly violated the laws of neutrality in perpetrating a whole series of acts, any one of which would have sufficed to cause the condemnation of his vessel;

Considering, moreover, besides the acts above referred to, the violation of a blockade by a neutral vessel legalizes its capture and condemnation;

Considering that a blockade was according to law, and that prizes are lawfully made in consequence thereof, and that when a blockade has been preceded by a general notification and a special notification, it is then effective;

Considering that the blockade of the ports of St. Marc, of Gonaïves, and of the Cape was decreed October, 15, 1888, notice of which was given on the 16th of the same month to the accredited diplomatic and consular agents at Port au Prince, specially to Mr. J. E. W. Thompson, minister resident of the United States of America, that concerning St. Marc, the blockade was immediately rendered effective by sending the *Dessalines* to that port;

Considering that the same ship, *Haytian Republic*, after coming out of Jacmel, directed her course to St. Marc;

Considering that on entering the line of blockade, she there found the *Dessalines*, which, by customary signals, tried to stop her, and not succeeding, the *Dessalines*, after firing a blank charge, fired projectiles after her, as was right;

Considering that these repeated warnings sufficiently established the special notification, and that even then, the *Haytian Republic* being ignorant of the blockade, it was her duty to stop and await the communication of the *Dessalines;*

Considering that taking advantage of her superior speed, the *Haytian Republic* went into the port of St. Marc, from where she attempted to go out when captured;

Considering that the violation of the blockade is flagrant;

Considering that Captain Compton, when brought to Port au Prince after the capture, and when requested by the examining judges to produce the ship's log and his papers, refused to do so; that likewise he refused to answer the questions that were put to him, to allow his vessel to be inspected, and to aid in accomplishing the formalities of justice such as were necessary for an inventory;

Considering this obstinate refusal contrary to the usages of international law, as well as to the provisions of the treaty concluded in 1864 between Hayti and the United States of America, aggravates the offense of Captain Compton;

By these reasons and motives the tribunal, after having deliberated, declare the

American merchant steamer *Haytian Republic*, of the Hayti Mail Steam-ship Line, a *bona-fide* prize. Orders, in consequence, the confiscation of the said steamer, and adjudges it the property of the Haytian Republic; and says that the captain, crew, and passengers, shall be disembarked, subject to proceedings which may be brought against them by the Haytian Government.

In that concerning the cargo.—Considering that the refusal, already mentioned, of Captain Compton to show his papers and make the necessary searches provokes legitimate suspicions concerning the nature of the cargo;

Considering that it would not be possible in the absence of papers and precise information on this subject to make a report as to the composition of the cargo after verification;

The tribunal orders that the said cargo shall be disembarked and an account taken of it; that the contraband of war, if any is found, shall be seized and confiscated, as well as merchandise belonging to the enemy.

Says that, concerning the merchandise of neutrals, it shall be turned over to them after their claims are justified by law.

A STATEMENT OF DAMAGES.

Considering that the facts heretofore charged against the *Haytian Republic* have contributed greatly towards spreading the insurrection, especially in causing the taking up of arms at Jacmel;

Considering, in consequence, that this ship causes a loss appreciable in money by reason of the extraordinary expenses that will be necessary to suppress the insurrectionary movement;

Considering that there is an opportunity to make an application of a general principle of law in virtue of which the damage occasioned to others ought to be repaired by the one that caused it or the one that is responsible for it:

The tribunal condemns Capt. David T. Compton and the Hayti Mail Steam-ship Line conjointly to pay to the Haytian Government for damaged interests the sum of 50,000 piasters.

The tribunal, moreover, orders the immediate execution of the present judgment.

Given by us, Hugon Lechaud, president; Maximilian La Forest, Justin Dévot, Jacques Nicolas Léger, Dantès Fortunat, judges; assisted by M. Christian Duchatellier, recorder; this 31st day of October, 1888.

It is enjoined and ordered to all the sheriffs upon this requirement to put the present judgment in execution; for the Government attorney to be ready to act for the *tribunal des prises;* to all commandants and other officers of the public force to put a strong hand in the matter when they are legally requested.

On faith of which the records of the present judgment are signed by the president, judges, and the recorder.

MAXIMILIAN LA FOREST.
JUSTIN DÉVOT.
CH. DUCHATELLIER.
DANTÈS FORTUNAT.
J. N. LÉGER.
H. LECHAUD.

CONCLUSIONS.

For the Haytian Government, represented by Mr. Emanuel Léon, advocate in the prize court.

Against (1) Mr. David T. Compton, captain of the steamer *Haytian Republic;* (2) Mr. John D. Metzger, agent of the Hayti Mail Steam-ship Line at Port au Prince.

Before the prize court on the 30th day of October, 1888.

May it please the court:

Whereas the steamer *Haytian Republic*, a merchant ship belonging to the Hayti Mail Steam-ship Line, sailing under the American flag, has landed upon her arrival at the Cape one gun.

Whereas upon the 11th day of October she took from the same town [Cape], armed in rebellion against the provisional government established at Port au Prince, two hundred and fifty-six men armed with repeating rifles and Remington carbines, and eighty cases of military supplies, which she transported to Gonaïves, a town also in insurrection.

Whereas this constituted in itself a violation of the neutrality imposed upon neutrals in case of war between two powers, and *a fortiori* in the case of a civil war.

Whereas this act, not entering in any way whatever into the outline of her commercial operations, is in a marked degree in co-operation with acts of insurrection.

Whereas it is the rule in international law that the neutral ship which transports armed men or military supplies in the service of the enemy is liable to seizure and condemnation as a lawful prize, such an offense being of a graver character than in the case of goods which are contraband of war, for the latter may perhaps be considered as a purely commercial act; but it is impossible to be mistaken as to the hostile character of the former, or not to be impressed by its extent.

Whereas after having landed the soldiers from Cape Haytien at Gonaïves, the *Haytian Republic* then went to Port de Paix, from which place she transported more troops to Gonaïves, and then changing her announced route, she went to St. Marc, instead of Miragoâne, for the purpose of transporting more soldiers. (See the testimony of Mr. Vital Alcide Charlemagne.)

Whereas the neutral ship which thus carries armed men evidently puts herself in the service of the enemy (Ortolan's Diplomacy of the Seas, Vol. II, pp. 234, 235; Wheaton's International Law, Vol. II, p. 161).

Whereas after these first acts, already very liable to condemnation, this same steamer, as if to insure her recompense for services to the insurgents, has carried around among the ports of Miragoâne, Cayes, and Jacmel emissaries from the central committee of the North, whose purpose was to incite revolt and spread the civil war (see the letters of Mr. N. Tassy and Joachim Nicholas).

Whereas she also carried dispatches urging the commandants of these districts to rise up in arms.

Whereas these services must be considered as being of the most hostile character, as in fact the aforesaid emissaries arrived at Jacmel, and having already sent out their call to arms, succeeded in putting in revolt the population, which had only waited for the dispatches from the North to decide the matter.

Whereas from Wheaton, Vol. II, p. 163, the neutral ship carrying hostile dispatches is liable to confiscation.

Whereas the decree of the provisional government of October 16 pronounced the ports of Cape, St. Marc, and Gonaïves in a state of blockade. After notifying the representatives of neutral nations at the capital, after the decree had been promulgated in all the towns in submission to the government, while sailing between the towns of Miragoâne, Cape, and Jacmel, the captain of the *Haytian Republic* should have known of the blockade.

Whereas the blockade was rendered effective, as before the port of St. Marc at the moment the *Haytian Republic* arrived there she found the guard-boat *Dessalines*, which guarded the entrance.

Whereas Commander Gaillard made all possible efforts to stop the steamer and give her the special notification necessary under the circumstances, and that he neglected nothing which he should have done.

Whereas Captain Compton escaped his vigilance and used the superior speed of his vessel to escape being sent to the bottom by the shot of the *Dessalines*.

Whereas he refused to stop, and thereby violated the blockade.

Whereas the *Haytian Republic* has been captured going out of the port of St. Marc, it being a general rule that neutral ships leaving a blockaded port thus violate the blockade and become liable to capture. (Calvo, Vol. 4, p. 148.)

Whereas when taken to Port au Prince Captain Compton absolutely refused to show his papers, and to allow seals to be put upon his vessel. As he refused to show his papers the presumption was that he knew of the blockade and deliberately violated it; and also his refusal to speak and to prove to the contrary gave a legality to his detention. (Ortolan, Vol. II, p. 330; case of the French frigate *Perle*, cruising off the coast of the Pampas, against the two American brigs the *America* and the *Eliza Davidson*.)

The foregoing shows that the merchant steamer *Haytian Republic*, belonging to the Hayti Mail Steam-ship Line, is a lawful prize.

The foregoing gives grounds for the confiscation of her cargo as contraband of war.

The foregoing gives grounds for levying upon the Hayti Mail Steam-ship Line a fine of $50,000 in reparation for the opposition to the Haytian Government stirred up by its vessel, making it necessary to begin a campaign against the town of Jacmel, roused to arms by the emissaries and dispatches carried to that town by steamer, and to take up arms to control an insurrection which is spreading rapidly, because the *Haytian Republic* went from town to town carrying arms and munitions of war and troops to aid in the rebellion.

EMANUEL LÉON,
Advocate of the Haytian Government before the Prize Court.

[Inclosure 3 in No. 225.—Translation.]

General Mardi to President Légitime.

Liberty. Equality. Fraternity.

REPUBLIC OF HAYTI.

No. 101.] MIRAGOÂNE, *October* 17, 1888.

PRESIDENT: By the English steamer *Haytien Republic*, arrived this morning from Gonaïves, I have received three letters containing the acts of the rebellion of the North, that I make my duty to send to you without having even unsealed or read them.

Emanating from the provisional government that has honored me with its confidence, and to which I have sworn fidelity, friend of order and of public tranquillity, I will take measures to that end.

I have the honor, etc.,

CARRIES MARDI.

[Inclosure 4 in No. 225.—Translation.]

Mr. Basse Lorme to President Légitime.

MIRAGOÂNE, *October* 17, 1888.

MY DEAR GENERAL: I hasten to place by this present to your knowledge that the steamer *Haytian Republic* made its entry in this port this morning at 6 o'clock, and after having debarked a few packages of merchandise, left at noon precisely for the southern coast up to Jacmel. It came from the Cape, Port de Paix, Gonaïves, and St. Marc, having on board Mr. N. Tassy, second constituent of the cape, and Mr. Joachim Nicholas, who have a mission to raise all the departments of the South. They have the intention of touching at Jacmel before the other ports, for they count a great deal on that city as well as Cayes.

The provisional government must put out all its energy, expedite at once to Jacmel, and at short delay, one or two regiments, so as to prevent an uprising, for that would be a torment for our party.

They have remitted to the consular agent of this place a package of placards that have not been posted up. They have mission for all the arrondissement, but our commandant of place has shown himself firm, and has not answered to their call; at the same instant he made a publication re-assuring the population that he holds strongly the post that the provisional government confided to him.

Hurry, hurry; do not allow time, for those gentlemen will be on the 18th or 19th at Jacmel. The thing is grave. But I hold you as warned of what is on the carpet. Do not pay attention to my erasures, for I have not the time to recopy. Oh, my country!

Receive, etc.,

BASSE LORME.

[Inclosure 5 in No. 225.—Translation.]

Mr. Simon to General Légitime.

MIRAGOÂNE, *October* 17, 1888.

MY DEAR GENERAL AND FRIEND: By the English steamer *Haytian Republic*, arrived this morning from Gonaïves and St. Marc, I have received from Cape Haytien a package of newspapers, Le Trait d'Union, of which I send you one number. I have not distributed this subversive journal.

The commandant of the commune has received three packages from the rebellion of the North. From the counsel that I have given him he did not unseal them, and sends them to the President of the provisional government by a horseman.

Through a traveler arrived from Port de Paix, who goes to Port au Prince to find General Turenne Jean Gilles, ex-commandant of the arrondissement, wounded during the night of September 28, we have received bad news from the North. St. Marc has rallied itself to the movement; Jn-Jumeau in flight, and his troops gone over to the rebellion.

Receive, my dear general and friend, the renewed assurance of my very devoted sentiments.

M. JEAN SIMON.

P. S.—This gentleman of Port de Paix leaves during the day or to-night in a small open boat for the capital with the wife of General Turenne Jn. Gilles, with the design to take that general to the North. It would, I think, be well to prevent the departure of that general from the capital. The traveler is Mr. Charlemague, of Port de Paix.

General Boisrond Canal communicated to us the acts of the rebellion. The steamer continues for Jérémie, Cayes, Aquin, and Jacmel, and I think that it has equally packages for all those ports.

Tranquillity reigns here.

[Inclosure 6 in No. 225.—Translation.]

Mr. Simon to General Légitime.

MIRAGOÂNE, *October* 17, 1888.

MY DEAR GENERAL: I have written to you this morning by an express that I made, together with the commandant of the commune.

In my letter I had forgotten to say to you that there arrived here M. Tassy, second constituent of the cape, on board of the steamer *Haytian Republic*, going on a mission to Cayes and Jacmel for the rebellion of the North. Mr. Nelson Tassy did not come ashore. He is bearer of a great many lying documents, that he is going to distribute at Cayes. He has said to have debarked six hundred men at St. Marc, taken from Gonaïves (exaggeration).

After a conversation (entirely confidential) of the captain of the *Haytian Republic* with a foreigner, the people of the North have in view a project of debarkment at Miragoâne, a strategic point. I think that the Government should open their eyes on Miragoâne, which is the goal of all the enemies of the Government of the country. You would do well to write to the commandant of the arrondissement, and to send some forces here and arms. It is an important point that I submit to your appreciation. You have no time to lose.

Do not forget 1883. We are here in anxiety and on the "qui vive." Everybody is disarmed.

I learn to-day by the Rivière's steamer news from Port au Prince. The city of Miragoâne, that is so sympathetic toward you, associates itself in the joy of the inhabitants at the capital.

Those people of the North are capable of all. Let the Government that you direct now weigh at its just value the communication that I make you and the counsel that I gave, to send us forces here, with a general sure and solid.

Accept, general and friend, the new assurance of my sympathetic devotion.

M. JEAN SIMON.

I offer my services to the Government as a delegate, to have elbow-room and hold the cause for the triumph of which I will sacrifice myself.

[Inclosure 7 in No. 225.—Translation.]

Messrs. Tassy and Nicholas to Commandant of the Arrondissement of Cayes.

Liberty. Equality. Fraternity.

REPUBLIC OF HAYTI,

Harbor of Cayes, October 18, 1888 (*85th year of the Independence*).

CITIZEN GENERAL: In remitting to you the documents of the revolution made in the departments of the North, of the Northwest, and of the Artibonite, we make it our duty to develop the grievances that have brought the three departments to pronounce against the provisional government dismembered by cause of and in consequence of the night of September 28th last.

In the plot laid at Port au Prince against the life of general-in-chief of the revolution of the North that destroyed the Salomonian administration, it imports that the whole country unravel the true motives of the action of the capital.

Already for a long time it has not escaped from the most serious men that Port au Prince has become a hearth of corruption, where the foreign element arrived always

at turning the profit of its criminal speculation the revolutions made in the name of the country, in the name of principles the most holy, the most respectable, and by captivating the good faith of our ministers, too credulous, too weak, and very often unfortunately, alas, incapable.

The capital of the Republic becomes therefore an abyss, where the provinces see ingulfed all their economies.

It is thus that Mr. Légitime, spirit weak to too ardent ambition, allows himself to be influenced by men who see in him as future chief of state but the continuation of the financial administration of which Mr. Salomon was the unconscious inaugurator, administration which, should it be perpetuated, would drag fatally the country into bankruptcy and finally to the loss of its independence.

We do not suppose that such a catastrophe can be viewed in cold blood and without any protestation from our brethern of the South.

No; they will lend, on the contrary, an attentive ear to the bugle of the North, that cries to them "Awake, the enemy is in the heart of the Republic, in the capital today, a petty foreign state, raising an odious tax on the rest of the country."

The revolution of the North against the provisional government, already divided, is not only an insult to be washed out, an illustrious death to be avenged, it is also and above all the whole country that wishes to shake off the humiliating yoke of a city since a long time the vassal of the foreigners, and of which the ignoble conduct is capable of compromising our nationality.

In the hope that the North will find the echo in the South,

We salute you in the fatherland.

J. B. N. TASSY.
J. NICOLAS.

[Inclosure 8 in No. 225.]

Mr. Auguste to the Provisional Government.

Liberty. Equality. Fraternity.

No. 212.] REPUBLIC OF HAYTI,
Aux Cayes, October 19, 188[8] (*85th year of Independence*).

GENTLEMEN: Yesterday some citizens of Cayes, among whom was found Mr. Dutton, went on board of the *Haytian Republic*, which had just entered this port.

Two citizens of the cape handed him in their presence two packages, addressed to me. On coming ashore these persons had circulated the rumor that I was in correspondence with the North. Mr. Dutton sent them to me about 1 o'clock in the afternoon. I sent and demanded him at my hotel, and did not fail to address to him my reproaches for his conduct in the occurrence.

To justify myself, in showing that I was no ways in correspondence with the North, as besides I am not, I caused to be convoked, before sending them to you, the local authorities and the principal citizens, to unseal them in their presence and give them cognizance.

They saw and found only the inclosed documents and a letter from those two citizens, which letter I have the honor to send you, without reserving anything.

When I was informed that I had been criticised by some persons on the motive that guided me on that occasion, I went in the evening to the house of Mr. Milien Dolcondé and explained the affair to him; as I have expressed to you, he did not fail to be in accord with me, as well as the citizen P. Bouzy, who came and found me in the conversation with him (Dolcondé.)

As you will understand, those who have criticised me have said that I belonged to the North, that I should enter into relations with my compatriots of that department. But as a man who in all things acts with visor raised, I have thought to prove to them that unsealing the packages in the presence of the local authorities and principal citizens, these became witnesses of the delicacy of my sentiments, and should in case of need justify me against this criticism.

Indignant of the little account that they have made at Aux Cayes of my honor, notwithstanding the proofs that I have never ceased to give of it, and convinced that the spirit of locality alone has dictated that sudden mistrust that has been declared against me for the sole reason that I belonged to one of the departments of the North, I would have hastened to offer to you my resignation. But to do so at this moment I feel would be cowardice, an epithet that I wish to put off from me, because my past is there to defend me on that point.

I continue to maintain tranquility and public order in my commandment.

Please accept, etc.,

L. AUGUSTE.

[Inclosure 9 in No. 225.—Translation.]

The delegation of the central revolutionary committee of Cape Hayti in the departments of the Northwest, of the Artibonite, and of the South to the commandant of the Arrondissement of Miragoâne.

Liberty. Equality. Fraternity.

REPUBLIC OF HAYTI,
Harbor of Miragoâne, October 17, 1888.

CITIZEN GENERAL: In the plot laid at Port au Prince against the life of the general-in-chief of the revolution of North, that destroyed the Salomonian administration, it imports that the entire country distinguish the true motive of the actions at the Cape.

Already for a long time it has not escaped our most serious men that Port au Prince had become a hearth of corruption where the foreign element arrived always to have turn to the profit of their criminal speculations the revolution made in the country in the name of the most sacred principles, the most respectable, and that in captivating the good faith of our ministers too credulous, too weak, and more oftener, alas! incapable.

The capital of the Republic became, therefore, an abyss where the provinces saw all their economies engulfed. It is thus that Mr. Légitime, spirit weak to a too ardent ambition, allowed himself to be influenced by those men who saw only in him, as future chief of state, the continuation of the financial administration of which Mr. Salomon was the inconscient inaugurator, administration which should it continue to be perpetuated would drag fatally the country into bankruptcy and finally to the loss of its independence.

We do not suppose that such an issue can be looked upon with cold blood and without protestations on the part of our brethren of the South. No; they will lend on the contrary an attentive ear to the bugle of the North that cries out to them: Wake up! the enemy is in the heart even of the Republic, in the capital, that has become to-day a little foreign state, raising an odious tax on the rest of the country.

The revolution in the North against the provisional government is not alone an insult to be washed out, an illustrious death to be avenged; it is also and above all the whole country that wishes to shake off the humiliating yoke of a city for a long time the vassal of the foreigner, capable of compromising our nationality. In the hope that the North will find its echo in the South, we salute you, general in the fatherland.

J. B. N. TASSY.
J. NICOLAS.

You will receive with the present the documents of the revolution.

[Inclosure 10 in No. 225.—Translation.]

Louis Auguste, general of the division of the armies of the Republic, commandant of this Arrondissement to the counsellor of the departments of war and marine.

Liberty. Equality. Fraternity.

No. 242.] REPUBLIC OF HAYTI,
Aux Cayes, October 24, 1888 (*85th year of the Independence.*)

Mr. COUNSELLOR: I have the honor to acknowledge the receipt of your dispatch of October 19th instant, No. 1, by which you gave me notice that from sure sources Messrs. Tassy, second constituent of the Cape, and Joachim Nicolas were in the harbor of Cayes, on board of the steamer *Haytian Republic*, bearers of placards and other lying documents of which they have left a good portion in my commandment. You reminded me by that dispatch of the imperious duties that falls to me in the presence of the present circumstance.

I have the advantage to inform you that that vessel presented herself in the harbor of Cayes, the 18th, between 12 and 1 o'clock in the afternoon, having on board the above-mentioned citizens. Documents from the north were remitted to me by Mr. Dutton.

By my letter of the 19th, No. 212, I have sent them to the provisional government in making a succinct report of all that took place.

I think it my duty to give you the assurance that soldier of honor, I will strive, with the help of God, to remain always a man of duty in displaying all the activity,

the energy, and the vigilance of which I am able to safeguard the peace, public security, the respect of property, and of families in the extent of my commandment.

I profit the occurrence to announce to you that I am deprived of arms and ammunition in my arrondissement apart from the arms in the hands of a portion of the troops. All that was in the possession of the volunteers and the national guard and in the depots after the events of 1883 were sent to Port au Prince.

Please accept, Mr. Counsellor, the assurance of my very patriotic salutations,

L. AUGUSTE.

[Inclosure 11 in No. 225.—Translation.]

Commander Gaillard to the Provisional Government.

PORT AU PRINCE, *October* 21, 1888.

EXCELLENCY: I have the honor to inform you that on yesterday, 20th of October, at about 4.45 p. m., as we were at the point of "Pierre Baie," a distance of 6 miles to St. Marc, we perceived a steamer in the direction of the South, one-fourth west half west, a distance of 12 to 13 miles below the Isle of Gonaïve. We immediately ran to her. As we were approaching her she directed herself in the bay of St. Marc. Having arrived at a distance of 3 miles from the ship we hoisted our flag of rendezvous, whistled at her, but nothing could stop her. We were compelled then to fire one blank shot to stop her. Seeing that she paid no regards we fired six bullets at her which did not arrive, and the last one fell in the direction of her two masts, one-fourth of a mile distant.

Then we were at a distance of 1½ miles from the ship. Already she had gained the bay of St. Marc. We put ourselves on her watch all night. The following morning, Sunday, at about 7½ o'clock, she got ready to come out from the bay. I whistled at her, I ran after her, I fired a cannon, and it was then she changed route. I got very near her, and I told the captain to put his ship by mine and to come aboard with his papers. He sent to me his second officer, and I sent him two of my officers with armed men on his ship; he returned the armed men and kept the officers. I gave him orders to follow me to Port au Prince, which he did.

J. A. GAILLARD.

[Inclosure 12 in No. 225.—Translation.]

Summons to Messrs. Compton and Metzger.

The year 1888, the 27th of October, at a quarter to 2 o'clock in the afternoon, on the request of Mr. Emmanuel Léon, lawyer of the bar of Port au Prince, residing and dwelling in this city, acting in the name and for the account of the Haytian Government in his capacity of representative of said Government near the special prize court, the undersigned, Valcourt Viljoint, bailiff, sworn and matriculated near the civil court of Port au Prince, residing and dwelling in this city, clerk to this effect, has given a summon (1) to Mr. David T. Compton, captain of the *Haytian Republic*, residing and dwelling at Boston, at present in the harbor of Port au Prince on board of the said steamer, where being and speaking to him in person;. (2) Mr. John D. Metzger, agent of the Hayti Mail Steam-ship Line, residing at Boston and dwelling at Port au Prince, at his dwelling, where being and speaking to him in person, to have to appear on Tuesday, October 30, at 9 o'clock in the morning, before messrs. the members composing the prize-court instituted at Port au Prince and sitting in the local of the court of commerce situated Rue Bonnefoi, because:

Whereas that in cases of war neutrals should abstain from all participation in the struggle engaged;

Whereas that the steamer *Haytian Republic* has violated the principles of neutrality in transporting troops, arms, ammunition, emissaries for the account of the insurrection;

Whereas these acts permit that vessel to be considered as an enemy;

Whereas that at date of October 16, the provisional government pronounced the blockade of the ports of the Cape of St. Marc, and of Gonaïves; that a regular notification was given to the representatives of the neutral powers; that the decree of the blockade was published in all the cities of the Republic; that when the steamer *Haytian Republic* presented herself before the port of St. Marc that port was blockaded;

Whereas that the blockade was effective since the Haytian vessel of war, the *Dessalines*, guarded the entry; that the *Haytian Republic* deceived the vigilance of the blockading forces and used the superiority of her speed so as not to be sunk;

Whereas that signals were made to her; that six cannon shots were fired at her to make her stop; that these acts constitute a sufficient special notification of the blockade;

Whereas that the vessel was captured at the moment she was leaving the port of St. Marc, where she had forced the entry, and where she had just taken dispatches;

Whereas that numerous witnesses confirm her illegal participation in the acts of the insurrection of the North; that the captain has refused to show the ship's papers; to allow to search his vessel by the investigating judges with the object of hiding the documents compromising to him; that he has refused that seals be placed on his vessel;

Whereas that a delegation composed of the chiefs of the insurrectional movement are still on his vessel, and were already there when the capture was made;

Whereas that the violation of the blockade is a crime foreseen, and punished by international law;

To hear himself condemned, the one to the loss and the abandon of the vessel that he commands, to her adjudication to the Haytian Government, to which it has caused great damages, to the confiscation of her cargo; the other, for the company of which he is the representative, to the loss and the abandon of the vessel, to her adjudication to the Haytian Government, to which she has caused great damages, to the confiscation of her cargo.

With reserve of all damage interest to which they may conclude the demandant.

That they may not be ignorant of this I have left them at the said place, and speaking as above, to each one of the above-named a copy of the present act.

VILJOINT.

[Inclosure 13 in No. 225.—Translation.]

Summons to Messrs. Ménos, Charlemagne, and Nicolet.

The year 1888, the 29th of October, on the request of Mr. Emanuel Léon, lawyer of the bar of Port au Prince, living and residing in this city, representative of the Government in the tribunal of prize, acting in the name and for the Haytian Government by Valcourt Viljoint, bailiff, sworn and matriculated in the clerk's office at the civil tribunal of Port au Prince, undersigned has passed summons:

(1) To Mr. Solon Ménos, lawyer, living and residing at Port au Prince, at his residence, where being and speaking to his person.

(2) To Mr. Charlemagne, Vital Alcide, residing at Port de Paix, actually at Port au Prince, at his residence, where being and speaking to his person.

(3) To Mr. Léon Nicolet, employé in commerce, living in Paris, residing at Gonaïves, actually at Port au Prince, to his person, having to appear on Tuesday, 30th of October, 1888, at 9 o'clock a. m., before the members of the tribunal of prize, sitting at Port au Prince at the local of the tribunal of commerce on Rue Bonnefoi, each separately to say what they may know of the affair of the American boat *Haytian Republic*, captured at St. Marc for violation of blockade by the man-of-war *Dessalines*. And I have in their said residences, where being and speaking as above to each one separately, left copy of the present acts.

VILJOINT.

[Inclosure 14 in No. 225.]

No. 14.] *List of passengers on the "Haytian Republic."*

N. Tassy, J. Nicholas, F. Paul, F. Prado, P. Flambert, L. Nicholas, A. Jean Baptiste, A. Charmant, Léon Eugène, D. Charles Pierre.

October 21, 1888, at 4 o'clock in the afternoon.

No. 683.

Mr. Thompson to Mr. Bayard.

[Extract.]

No. 226.] LEGATION OF THE UNITED STATES,

Port au Prince, Hayti, November 24, 1888. (Received December 10.)

SIR: Early on the morning of the 20th instant the French man-of-war *Bisson*, with the Archbishop of the Catholic Church, the Haytian minister of foreign affairs, the French minister, and British consul-gen-

eral, left here for ports in the north, for the purpose of causing a reconciliation of the two political factions. I had been invited on several occasions, both by General Légitime and the minister, Mr. Margron, to go with such commission, but declined, giving excuses of important official business, as I knew full well the bad impression that would be created in the North by the presence even of a French war vessel, apart from any of those above-named gentlemen as passengers on board.

General Légitime, in an interview a week back, informed me that he did not wish the French minister to go to the north, as he feared the contrary effect to that desired would be produced, as those in the north had already on more than one occasion denounced the latter; he then again asked me to go with the Archbishop, British representative, and Mr. Margron. On the eve of departure Mr. Margron called upon me and, again requesting me to accompany them, said he felt my appearance at northern ports would show the people that no treachery was intended, and they would accept overtures with better grace. The 22d instant Mr. Rossignol, counselor of finance and commerce, called at this legation, expressed regrets, as he thought the delegates whom they had sent would be unable to accomplish anything. He said it was the intention of the authorities to write to me on the return of such delegation, if such proved unsuccessful, requesting me, as a final effort to avert civil war, to make a trip with any others of my choice, and begging me to use every influence towards reconciliation. I told him we must hope, and it would be better to form no plans until the departed delegation returned.

Some weeks ago, when letters from here requesting those in the north to put down their arms and promising any measures to satisfy them for the sake of peace was received by them, they replied, "We want peace, and to obtain it M. Légitime must withdraw his candidature. A bas Légitime!" Yesterday morning, the 23d instant, the *Bisson* returned. During the day publication was given as to the result of the mission. I inclose herein, marked A, with translation B, copy of the dispatch sent by the delegation from the man-of-war *Bisson* to the committee of Cape Haytien, and dated the 21st instant. Inclosure C, with translation D, is the reply from such committee, wherein they regret that the delegation did not land, and in an evasive manner refuse to go on board the *Bisson* as requested. Inclosure E, with translation F, is copy of a letter from the French consular agent to the delegation, stating that, notwithstanding his persuasion, the committee will not visit the *Bisson* for deliberation. Inclosure G, with its translation, marked H, the reply from the French minister to the consular agent, says they have traveled 185 miles to bring propositions of reconciliation as friends of Hayti; they can do no more. They leave them the responsibility of their refusal. After traveling 185 miles they could not stoop to go on shore, a few yards further only, although "sincere friends of Hayti, and outside of any political party."

This morning Mr. Margron, counselor of foreign affiairs, called at this legation, informed me that the trip north terminated as he expected it would; that when they arrived in the harbor of Cape Hayti the French consular agent came off to the *Bisson* and, on seeing the French minister, said he advised him not to go on shore with anticipation of being received kindly, if at all, as the people were indignant against him. Then it was they decided to send their communication, inclosed herein, No. 1. Mr. Margron then said their dependence was upon me, and he desired to know if I would undertake the mission. I could not promise him, but told him I would meet him next week and learn di-

rectly then the propositions to offer, the concessions to make, in order to arrive at a logical reasoning as to the possibilities of success, by the envoy, in his efforts to prevent civil strife.

Notwithstanding the above conversation, the authorities caused a publication to the effect that, having tried means of reconciliation and failed, they would proceed to stringent measures. The report is that the authorities, knowing the delegation would fail, had made all of their arrangements of attack, and that now preparations are being made on the frontier for forces to march on to St. Marc.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure 1 in No. 226.—Translation.]

Messrs. Hillion, de Sesmaisons, and Zohrab to the Revolutionary Committee at Cape Haytien.

To the Gentlemen Members of the Committee of Cape Hayti:

The undersigned, Monseignor Hillion, Archbishop of Port au Prince; Messrs. the Comte de Sesmaisons, minister plenipotentiary of France in Hayti; Zohrab, consul-general of England for Hayti and San Domingo, have the honor to inform you that, for the purpose of reconciliation outside of all political party, and as sincere friends of the country, they have come to the Cape to propose to you the most proper means to avoid effusion of blood.

Mr. Margron, charged with the portfolio of exterior relations, accompanies them provided with full powers.

The undersigned, in order to assure the calm and the security of deliberations, invite you to have no objections to come on board the French cruiser *Bisson*, neutral ground, according to international laws.

They would be happy to receive a prompt answer, considering the necessity for the ship to leave the Cape without delay.

HARBOR OF CAPE HAYTI, *November* 21, 1888.

[Inclosure 2 in No. 226.—Translation.]

The revolutionary central committee of the North to Monsigneur Hillion, Archbishop of Port au Prince; the Comte de Sesmaisons, minister plenipotentiary of France in Hayti; Zohrab, consul-general of England for Hayti and Santo Domingo, and Eugene Margron:

Liberty. Equality. Fraternity.

No. 85.] REPUBLIC OF HAYTI, *November* 21, 1888,
(85*th year of Independence.*)

The undersigned have the honor of acknowledging the receipt of your note wherein you invite them to have no objection to come on board the French cruiser *Bisson* in order to listen to propositions that you intend to make to them upon the most proper means to avoid effusion of blood in this country.

The undersigned regret that you had not thought to come on shore, where they offer you all security for deliberations; for you know, gentlemen, a body composed of so many members as the committee experiences always a certain difficulty to displace itself, admitting even that sentiments of the most respectable kinds would not prevent them.

A. FIRMIN,
PAPILLON,
STEWART,
NEMOURS AUGUSTE,
H. ETIENNE [illegible signature].
THE PRESIDENT HYPPOLITE.

[Inclosure 3 in No. 226.—Translation.]

Mr. Reine to the Comte de Sesmaisons.

No. 15.] CONSULAR AGENCY OF FRANCE,
Cape Hayti, November 21, 1888.

MR. MINISTER:

I come from the committee. Those gentlemen consider as an invitation the sentence, "The undersigned regret that you had not thought to come on shore, where they offer you all security for deliberations."

Notwithstanding all that I could tell them they will not go on board.

Accept, Mr. Minister, my most respectful salutations.

S. H. REINE,
The Agent Vice-Consul of France.

[Inclosure 4 in No. 226.—Translation.]

The Comte de Sesmaisons to Mr. Reine.

LEGATION OF THE FRENCH REPUBLIC IN HAYTI,
Cape Hayti, November 21, 1888.

SIR: We have traveled 185 miles to bring propositions of reconciliation as friends of Hayti. We have offered to the gentlemen, members of the committee of Cape Hayti, to come on board the *Bisson*, neutral territory. Those gentlemen refuse. We can not do more; we leave them the responsibility of their refusal.

Receive, etc.,

COMTE DE SESMAISONS.

M. REINE,

No. 684.

Mr. Thompson to Mr. Bayard.

No. 227.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 25, 1888.
(Received December 10.)

SIR: I transmit herein, for your consideration and instructions, a duplicate of a protest from Capt. D. C. McIntosh, of the schooner *Maggie Abbott*, which protest he makes against the authorities of Port au Prince for refusing to clear his vessel for Port de Paix, application having been made for such clearance on the 26th ultimo. It was on October 26 last that the assembly of constituents voted to place the port of Port de Paix under blockade.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 227.]

Captain McIntosh to Mr. Thompson.

PORT AU PRINCE, HAYTI, *November* 1, 1888.

I, D. C. McIntosh, master of the schooner *Maggie Abbott*, of Boston, Mass., U. S. A., recently arrived in this port of Port au Prince from New York City, do hereby enter a formal protest at the consulate-general of the United States of America at Port au Prince, under date of November 1, 1888, against the authorities of Port au Prince or the Government of Hayti, for the refusal on their part to give a clearance to said schooner *Maggie Abbott* for the port of Port de Paix.

Whereas the said schooner *Maggie Abbott* was chartered on the 20th day of September, 1888, to take a cargo of logwood from Port de Paix, Hayti, to New York, U. S. A.,

this cargo was ready in the month of September last past, and is still awaiting shipment. On the 26th day of October application was made to the custom-house authorities at Port au Prince for the necessary clearance of the said schooner *Maggie Abbott* from the port of Port au Prince for that of Port de Paix to load cargo of logwood, and such clearance was refused and denied by the director of the custom-house at Port au Prince, on the plea that the port of Port de Paix was under a state of blockade; this refusal on the part of the authorities has prevented the undersigned from fulfilling his agreement according to charter-party duly drawn up and signed at the date of September 20, 1888, whereby he incurs, first, a loss of his freight, amounting to $3,000; second, the liability to an action at law on the part of Messrs. Lyon & Co. for the non-fulfillment of his contract; and, third, the loss of expenses of his vessel for each day of detention since discharging her cargo at Port au Prince, October 25, 1888. The said schooner *Maggie Abbott* has been ready to proceed on her voyage as per charter-party dated September 20, 1888, to load cargo of logwood at Port de Paix, amounting to $100 per day.

With this statement of my case, I, the undersigned, master of the said schooner *Maggie Abbott*, a citizen of the United States of America, do submit the same to you, and through you to our Government, looking for fair and proper protection.

Respectfully, yours,

D. C. McINTOSH,
Master of Schooner Maggie Abbott.

Sworn to and subscribed before the undersigned, John E. W. Thompson, consul-general of the United States at Port au Prince, Hayti. In witness whereof I have hereunto subscribed my name and affixed the seal of the consulate-general at Port au Prince, Hayti, this 5th day of November, and of the Independence of the United States the one hundred and thirteenth.

[SEAL.] JOHN E. W. THOMPSON.

No. 685.

Mr. Thompson to Mr. Bayard.

No. 228.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 26, 1888.
(Received December 10.)

SIR: I inclose herein, for your consideration and instructions, duplicate copy of a protest made by Capt. A. H. Parker, of the schooner *Julia Fowler*. Such protest is made against the authorities of this city for refusing on the 5th instant to clear the above-named vessel to the port of Gonaïves, where she was chartered to take a cargo of logwood. The order of blockade of the port of Gonaïves was published in this city the 16th ultimo, and likewise officially announced to this legation on the same date.

I have, etc.,

JOHN E. W. THOMPSON.

[Inclosure in No. 228.]

Protest of Captain Parker.

PORT AU PRINCE, *November* 12, 1888.

SIR: The undersigned, master of the schooner *Julia Fowler*, of Wellfleet, recently arrived in this port from New York, hereby enters a formal protest at this consulate-general, under date of November 12, 1888, against the authorities of Hayti for the refusal on their part to give the necessary clearance to said schooner *Julia Fowler* for the port of Gonaïves.

Whereas the said schooner *Julia Fowler* was chartered on September 10, 1888, to take a cargo of logwood from Gonaïves, Hayti, to New York, U. S. A., this cargo was ready in the month of October last past, and is now awaiting shipment. On November 5 application was made to the custom-house authorities at Port au Prince for the

necessary clearance of the said schooner *Julia Fowler* from the port of Port au Prince for that of Gonaïves to load cargo of logwood, and such clearance was refused and denied by the director of the custom-house at Port au Prince, on the plea that the port of Gonaïves was under a state of blockade; this refusal on the part of the authorities has prevented the undersigned from fulfilling his agreement according to charter-party duly drawn up and signed at the date of September 10, 1888, whereby he incurs, first, a loss of his freight amounting to $3,000; second, the liability of an action at law on the part of Messrs. W. & A. Leaman for the non-fulfillment of his contract; and third, the loss of expenses of his vessel for each day of detention since discharging her cargo at Port au Prince. The said schooner *Julia Fowler* has been ready to proceed on her voyage, as per charter-party dated September 10, 1888, to load cargo of logwood at Gonaïves, amounting to $100 per day.

With this statement of my case I, the undersigned, master of said schooner *Julia Fowler*, a citizen of the United States of America, do submit the same to you and through you to our Government, looking for fair and proper protection.

Respectfully, yours,

A. H. PARKER.

Sworn to and subscribed before the undersigned, John E. W. Thompson, consul-general of the United States at Port au Prince, Hayti.

In witness whereof I have hereunto subscribed my name and affixed the seal of the consulate-general at Port au Prince, Hayti, this 12th day of November, A. D. 1888, and of the Independence of the United States the one hundred and thirteenth.

[SEAL.] JOHN E. W. THOMPSON,
United States Consul-General.

No. 686.

Mr. Thompson to Mr. Bayard.

No. 235.] LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 26, 1888.
(Received December 10.)

SIR: I have to acknowledge the receipt of your No. 132 of the 15th instant, and to inform you that your telegram of the 10th instant was transmitted to me by our consul at Kingston, Jamaica, and received by me this morning. Your instructions therein contained had, in principle, been faithfully carried out.

I am, etc.,

JOHN E. W. THOMPSON.

No. 687.

Mr. Bayard to Mr. Thompson.

No. 135.] DEPARTMENT OF STATE,
Washington, November 27, 1888.

SIR: I have received your No. 218 of the 3d instant, reporting the judgment of the prize court in the case of the *Haytian Republic* and your protest made to the Haytian authorities against their action in the case.

Your protest is approved as a timely reservation of all rights.

I am, etc., T. F. BAYARD.

No. 688.

Mr. Bayard to Mr. Thompson.

No. 136.] DEPARTMENT OF STATE,
Washington, November 27, 1888.

SIR: I have received your No. 220 of the 15th instant, reporting the departure of the *Boston* from Port au Prince.

The *Boston* has reached New York with several cases of yellow fever on board.

I am, etc.,

T. F. BAYARD.

No. 689.

Mr. Bayard to Mr Thompson.

No. 137.] DEPARTMENT OF STATE,
Washington, November 30, 1888.

SIR: I transmit herewith, for your information and guidance, copy of a note* which I have addressed to Mr. Stephen Preston, the representative of Hayti in this country, setting forth the considerations which make it impossible for this Government to accept as valid the seizure and condemnation of the steamer *Haytian Republic.*

The examination of the very full and intelligent report received from Captain Ramsey, of the U. S. S. *Boston*, with the papers and correspondence therewith submitted, left no ground for doubt as to the entire justice of the positive conclusion of this Government in the premises, and as the administrative authorities now in power at Port au Prince appear to have deferred the examination and decision of the case of the *Haytian Republic* to the Government of the United States, Mr. Preston's powers will no doubt suffice to enable the question to be disposed of without delay.

While you will avoid any renewal of discussion at Port au Prince, and distinctly decline it should it be proposed, you will not fail to impress upon those assuming the responsibility of speaking for Hayti in the conduct of her relations to the United States that this Government has considered it to be sufficient to convey its decision of the case of the *Haytian Republic* in order to have it promptly accepted and voluntarily acted upon by Hayti.

It is necessary, therefore, that you should receive from the Haytian authorities assurances of the immediate replacement on the steamer *Haytian Republic* of those portions of her machinery which it is understood were removed under their orders, so that she may be restored to her usual sea-going capacity and fitness for maritime service.

I am, etc.,

T. F. BAYARD.

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* See document No. 709, *post*, page 1001.

No. 690.

Mr. Rives to Mr. Thompson.

No. 57.] DEPARTMENT OF STATE,
Washington, December 3, 1888.

SIR: I have to acknowledge the receipt of your dispatch of the 19th ultimo, No. 116, and to approve your action, reported therein, in sending home the crew of the captured steamer *Haytian Republic.*

I am, etc.,

G. L. RIVES,
Assistant Secretary.

CORRESPONDENCE WITH THE LEGATION OF HAYTI AT WASHINGTON.

No. 691.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,
Washington, May 23, 1888.

MY DEAR MR. PRESTON: I have the pleasure to inform you that duplicates in English and French have been made of the draught agreement for arbitration in the Van Bokkelen case, and that I shall be happy to sign it with you at this Department to-morrow at half-past 2 o'clock p. m., should that hour be convenient for you.

I am, etc.,

T. F. BAYARD.

No. 692.

Mr. Preston to Mr. Bayard.

LEGATION OF HAYTI,
Washington, May 24, 1888. (Received May 24.)

MY DEAR MR. BAYARD: I have the pleasure to acknowledge receipt of your letter of yesterday, informing me that the draught of the agreement for arbitration in the Van Bokkelen case is ready. Agreeably to your request, I will be at the Department to-day, at half past 2 o'clock p. m., to sign it.

I am, etc.,

STEPHEN PRESTON.

No. 693.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, June 5, 1888. (Received June 5.)

Mr. SECRETARY OF STATE: I have the honor to confirm to you, herewith, my acquiescence in the choice of Mr. Alexander P. Morse, of the District of Columbia, as arbitrator in the case of C. A. Van Bokke-

len, which is referred to arbitration according to the protocol signed by us on the 22d of May last.

Permit me at the same time to bring to your notice that, before taking cognizance of the question which is submitted to him, the arbitrator designated by the two Governments should declare in writing that he will decide it in good faith [*en conscience*], with impartiality, and conformably to the principles of law applicable thereto.

Accept, etc.,

STEPHEN PRESTON.

No. 694.

Mr. Adee to Mr. Preston.

DEPARTMENT OF STATE,
Washington, June 9, 1888.

SIR: I have the honor to inclose copies of two letters, one from the Secretary of State to Mr. Alexander Porter Morse, of the 7th instant, and the latter's reply thereto, of the 8th instant, in which his acceptance of the position of referee in the case of Van Bokkelen is signified.

Accompanying Mr. Morse's letter is the formal declaration signed by him, in accordance with your suggestion, that he will impartially and carefully examine and decide the case submitted to him in good faith, to the best of his judgment, and conformably to the principles of law applicable thereto.

As this declaration, which was signed yesterday, the 8th of June, 1888, marks the assumption by Mr. Morse of the office of referee and the completion of his appointment as such, I have the honor to suggest that, in acknowledging the receipt of this note, the date above specified be accepted as the date of the appointment, in order to preclude any uncertainty or difference of opinion on any part hereafter in regard to this point.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure 1.]

Mr. Bayard to Mr. Morse.

DEPARTMENT OF STATE,
Washington, June 7, 1888.

SIR: An agreement having been signed by me, as Secretary of State and representative of the Government of the United States, and by the minister of Hayti, as the representative of his Government, on the 24th day of May, to submit the claim of Charles Adrien Van Bokkelen, a citizen of the United States, against the Government of Hayti, to the decision of a referee, to be chosen by the parties to the protocol, I have the pleasure to inform you that both parties have agreed on the selection of yourself as referee.

Inclosed herewith is a copy of the protocol for your examination, and should you accept the position as indicated, your formal notification may be given by making a declaration in writing in the usual form that you will decide the case submitted in good faith, with impartiality, and conformably to the principles of law applicable thereto.

I am, etc.,

T. F. BAYARD.

[Inclosure 2.]

Protocol of an agreement between the Secretary of State of the United States and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Hayti for submission to an arbitrator of the claim of Charles Adrien Van Bokkelen, signed May 24, 1888.

The United States of America and the Republic of Hayti, being mutually desirous of maintaining the good relations that have so long subsisted between them and of removing, for that purpose, all causes of difference, their respective representatives, that is to say: Thomas F. Bayard, Secretary of State of the United States, and Stephen Preston, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Hayti, have agreed upon and signed the following protocol:

1. It having been claimed on the part of the United States that the imprisonment of Charles Adrien Van Bokkelen, a citizen of the United States, in Hayti, was in derogation of the rights to which he was entitled as a citizen of the United States under the treaties between the United States and Hayti, which the Government of the latter country denies, it is agreed that the questions raised in the correspondence between the two Governments in regard to the imprisonment of the said Van Bokkelen shall be referred to the decision of a person to be agreed upon by the Secretary of State of the United States and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Hayti.

2. The referee so chosen shall decide the case upon such papers as may be presented to him by the Secretary of State of the United States and the Minister of Hayti respectively, within two months a ter the date of his appointment; but he shall not take into consideration any question not raised in the correspondence between the two Governments prior to the date of the signature of this protocol.

3. Each Government shall submit with the papers presented by it a brief of argument, and should the referee so desire, he may require further argument, oral or written, to be made within five months from the date of his appointment. He shall render his decision within six months from said date.

4. A reasonable fee to the Referee shall be paid by the Government of Hayti.

5. Any award made shall be final and conclusive, and, if in favor of the claimant, shall be paid by the Government of Hayti within twelve (12) months of the date of such award.

Done in duplicate, at Washington, this 24th day of May, one thousand eight hundred and eighty-eight.

Les États-Unis d'Amérique et la République d'Haïti étant également désireux de maintenir les bonnes relations qui ont si longtemps existé entre eux, et pour cette raison, d'écarter toutes les causes de différend, leurs représentants respectifs, à savoir, Thomas F. Bayard, Secrétaire d'État des États-Unis, et Stephen Preston, Envoyé Extraordinaire et Ministre Plénipotentiaire de la République d'Haïti, se sont mis d'accord et ont signé le protocole suivant:

1. Comme il a été soutenu de la part des États-Unis que l'emprisonnement de Charles Adrien Van Bokkelen, citoyen des États-Unis, en Haïti, a eu lieu en dérogation des droits qui lui appartenaient comme citoyen des États-Unis, d'après les traités entre les États-Unis et Haïti, ce qui nie le Gouvernement du dernier État, il est convenu que les questions soulevées dans la correspondance entre les deux Gouvernements au sujet de l'emprisonnement du dit Van Bokkelen, seront référées à la décision d'une personne qui sera désignée par le Secrétaire d'État des États-Unis et l'Envoyé Extraordinaire et Ministre Plénipotentiaire d'Haïti.

2. L'Arbitre ainsi choisi, décidera sur telles pièces qui peuvent être produites devant lui par le Secrétaire d'État des États-Unis et le Ministre d'Haïti, respectivement, dans les deux mois qui suivront la date de sa nomination; mais il ne prendra en considération aucune question qui n'a pas été soulevée dans la correspondance entre les deux Gouvernements, antérieure à la date de la signature de ce protocole.

3. Chaque Gouvernement soumettra avec les documents présentés par lui, un mémoire à l'appui, et si l'arbitre le désire, il pourra demander d'autres plaidoiries, orales ou écrites, qui devront être faites dans les cinq mois qui suivront la date de sa nomination. Il rendra sa décision dans les six mois suivant la dite date.

4. Des honoraires raisonnables, seront payés par le Gouvernement d'Haïti à l'Arbitre.

5. Toute sentence arbitrale rendue, sera finale et concluante; et, si elle est en faveur du réclamant, le montant sera payé par le Gouvernement d'Haïti, dans les douze (12) mois qui suivront la date de cette sentence.

Fait, en double expédition, à Washington ce 24 jour de Mai mil huit cent quatre-vingt-huit.

T. F. BAYARD. [SEAL.]
STEPHEN PRESTON. [SEAL.]

[Inclosure 3.]

Mr. Morse to Mr. Bayard.

WASHINGTON, *June* 8, 1888.

SIR: I have the honor to acknowledge the receipt of your communication dated June 7, advising me that I had been selected as referee under a protocol between the United States of America and the Republic of Hayti, to decide the claim of Charles Adrien Van Bokkelen, a citizen of the United States, against the Government of Hayti.

I have also a copy of the protocol in pursuance of which the case is proposed to be submitted.

I accept the position indicated, and in accordance with your suggestion I inclose my declaration in the usual form.

I am, etc.,

ALEX. PORTER MORSE.

I, the undersigned referee, appointed in pursuance of a protocol, dated the 24th day of May one thousand eight hundred and eighty-eight, between the United States of America and the Republic of Hayti, for the settlement of the claim of Charles Adrien Van Bokkelen, a citizen of the United States, against the Government of Hayti, solemnly declare that I will impartially and carefully examine and decide the case submitted to me in good faith, to the best of my judgment, and conformably to the principles of law applicable thereto.

In witness whereof I have, this eighth day of June, one thousand eight hundred and eighty-eight, made and subscribed this my solemn declaration.

ALEXANDER PORTER MORSE.

No. 695.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, June 13, 1888. (Received June 14.)

SIR: I have the honor to acknowledge the receipt of the note addressed to me by your Department under date of the 9th instant, inclosing a copy of the correspondence between the Secretary of State and Mr. Alexander Porter Morse, and also the written declaration of the latter, appended to his letter, accepting the position of arbitrator in the Van Bokkelen case.

I thank you for this communication, and in accordance with your suggestion I accept the date of Mr. Morse's declaration, signed June 8, 1888, as that of his appointment.

Accept, etc.,

STEPHEN PRESTON.

No. 696.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington June 24, 1888. (Received June 25.)

Mr. SECRETARY OF STATE: I have the honor to announce to you that Messrs. C. A. de Chambrun, George S. Boutwell, and James G. Berret are the counsel for the Haytian Government in the case of C. A. Van Bokkelen, which is submitted to Mr. Alexander P. Morse as arbitrator.

Accept, etc.,

STEPHEN PRESTON.

No. 697.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,
Washington, July 20, 1888.

SIR: Referring to your note of the 24th ultimo, in which you informed me of the names of the counsel for your Government in the case of Van Bokkelen before the referee, I have the honor to state that the Department has been advised that Messrs. Kennedy and Shellabarger, of this city, and Marston Niles, of New York, will represent the claimant.

Accept, etc.,

T. F. BAYARD.

No. 698.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, October 25, 1888. (Received October 27.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, has the honor to bring to the knowledge of the honorable Secretary of State of the United States the following facts:

After the departure of President Salomon, which took place on the 10th of August of this year, a provisional government took the direction of affairs and called a national constituent assembly, which sat at Port au Prince. It was to proceed to the election of a new President of the Republic and to revise certain articles of the constitution.

This assembly has been freely elected by universal suffrage.

It met the 16th instant and has elected General Francis Denis Légitime chief of the executive power.

The assembly continues to sit, in virtue of a mandate with which it has been charged.

Whilst the Government is thus attending to its legitimate labor, the cities of Cape Haytien, Gonaïves, and St. Marc, situated in the north of the territory of the Republic, rose against the regular Government of the country; at the present moment they are in arms, and the undersigned is informed that attempts are to be made to procure from the United States for the insurgents the necessary materials of war.

The undersigned knows that already negotiations have been arranged and the arrival of one or more rebel agents is alone awaited to give a definite form to these projects.

In view of this serious state of affairs, the Government of the undersigned has taken measures, which it has made known by telegraphic dispatches, that the ports of Cape Haytien, Gonaïves, and St. Marc have been closed to commerce and they are blockaded by a Haytian naval force.

This assemblage of facts, which in the eyes of international law constitute without any doubt a state of war, the undersigned has no doubt will lead the honorable Secretary of State to take the necessary measures to prevent or suppress any violation of the neutrality of the territory of the United States by the insurgent agents, if it shall have actually taken place. As to what measures the Government of the United States should have to take in this respect, it is not for the undersigned to make any suggestions; he has full confidence in the perfect loyalty and in the energy of the United States Government; he has had too recent proofs of it not to be pleased to recall to the honorable Secretary of State his own words:

"It (the United States), said he in his report on the Pelletier affair, has announced that it will develop as is suitable the territorial rights of the most feeble of these States, not regarding them simply as equals in the eyes of the law, but, in regard to their own policy, as meriting of right their most gracious assistance."

The undersigned closes this note in announcing to the honorable Secretary of State that he shall feel it his duty to bring to his attention any culpable action tending to violate the neutrality of the United States of which he may be able to obtain sufficient proof.

Accept, etc.,

STEPHEN PRESTON.

No. 699.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, October 27, 1888. (Received Oct. 30.)

The undersigned, envoy extraordinary and minister plenipotentiary of Hayti, in confirmation of the note he had the honor to address to the Secretary of State of the United States on the 25th instant, upon the situation in Hayti, regrets to bring to his knowledge the following incident, which the department of foreign relations has charged him to communicate to the honorable Thomas F. Bayard:

The Haytien war steamer *Dessalines* has captured, at the entrance of the port of St. Marc, the American steamer *Haytian Republic*, which attempted to run the effective blockade of this insurgent port. The *Haytian Republic* had on board a delegation of rebels, taken at Cape Haytien, with armed soldiers, arms, and munitions of war. This vessel thus armed had been in the ports of the south of Hayti remaining faithful to the Government of the Republic—Miragoâne, Jérémie, Aux Cayes, Aquin, and Jacmel—where the expedition has unsuccessfully tried to rouse the populations of these towns against the regular Government. In consequence of the failure of this culpable enterprise the American vessel has been captured, with its armament, at the moment of forcing the blockade of the port of St. Marc, conducted to Port au Prince, and its case has been submitted to the prize court, having undoubted jurisdiction.

While awaiting the verdict of the court the prisoners and crew of the vessel are respected and well treated by the local authorities.

As soon as the undersigned shall receive the dispatches he expects by the next mail from his Government he will hasten to inform the Secretary of State more fully of this vexatious incident, which has been communicated to him by telegraph.

The undersigned, etc.,

STEPHEN PRESTON.

No. 700.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,
Washington, October 29, 1888.

SIR: Your communication of the 25th instant gives to this Government the first intimation it has received of the proposed closure to commerce of the ports of Cape Haytien, Gonaïves, and St. Marc, and you further therein state that these aforesaid ports are blockaded by a Haytian naval force.

As to any movement in the United States for the sending of vessels to Hayti armed, for the purpose of participating in an insurrection in that island, the Department will take prompt measures, whenever information is laid before it, to advise the proper authorities to inquire into the alleged movement. It would insure more prompt action, however, for Haytian agents at any place within the United States where such an expedition is supposed to be preparing to apply directly and immediately to the United States district attorney, and present to him full information as to such illegal action.

The Government of the United States is fully prepared to respect a blockade of the Haytian ports which may be duly instituted and effectively maintained by the Haytian Government. But the right of the Haytian Government to call on this Government to stop sales of munitions of war to persons who may be concerned in a Haytian insurrection is in no sense conceded. As regards the question of blockade without due prior notice and proclamation thereof, it is not competent that seizures of vessels should be made by Hayti.

Therefore the Government will regard the seizure and detention of American vessels, with their crews and property, for attempting to enter such ports, without such notice of blockade, as an act of hostility and wrong for which the prompt release of the vessels and crews, restitution of the property, and other suitable redress will be insisted upon.

Accept, etc.,

T. F. BAYARD.

No. 701.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, November 2, 1888. (Received Nov. 3.)

In reply to the note of the honorable Secretary of State, bearing date of October 29, relative to the state of war now existing on Haytian soil, the undersigned thanks the honorable Thomas F. Bayard for his decisive declarations, which indicate the course which the United States propose to pursue in order to cause the neutrality of their territory to be respected.

The undersigned regards this as a fresh evidence of the sentiments of which he is happy to say that he has repeatedly been assured, and of the happy effects of which he is well aware.

As regards the case of the seizure of the *Haytian Republic*, the undersigned does not think that he can add any new facts to those which have been communicated to him by telegraph, and which he has already brought to the notice of the honorable Secretary of State. Before being able discuss the matter with full knowledge of its details he must wait until the mails have brought him information concerning all those details. Nevertheless, he thinks it proper for him to present, without further delay, some observations concerning the principles which may eventually become applicable to the seizure of said steamer.

It is to be presumed that this seizure took place after a state of war had been duly proclaimed, in which case the matter is governed by Articles XXVI, XXVII, and XXVIII of the treaty of November 3, 1864, between Hayti and the United States.

Let us suppose, however, for a moment, that no state of war and no effective blockade yet existed; that, in a word, a state of peace then existed; the undersigned would then appeal to precedents and to the principles of international law which would govern under such a supposition; if a vessel carries an armed expedition, and attempts to effect a landing with such expedition, it is liable to seizure in the territorial waters. The measure adopted in such a case is one of police and security.

The undersigned herewith incloses an extract from Wheaton on this subject. He would also refer the Honorable Secretary of State to the case of Mali and Wildenhus *v.* The Keeper of the Hudson County Jail (120 U. S.), in which it was decided that "any disorder on board of a foreign vessel which disturbs public peace may be repressed, and, if necessary, the creators of the disturbance may be punished by the competent legal authorities."

The undersigned does not think it necessary for him here to enumerate the other precedents which go to show the competence of Hayti in a case like this. (See Ortolan, Diplomatie de la Mer, vol. 1, pp. 270 *et seq.*)

It is impossible, however, for these preliminary observations to be based on anything more than an imperfect knowledge of the facts.

The undersigned concludes by expressing the hope that the honorable Secretary of State will, before reaching a decision in relation to this question, give him time to receive full information from his Government.

As soon as he shall have done so he will hasten to examine this case with all possible care and to communicate the results reached to the

Honorable Secretary of State, in whose judgment and impartiality he feels every confidence.

The undersigned has the honor to renew to the Secretary of State the assurances of his very high consideration.

STEPHEN PRESTON.

[Inclosure.]

FROM WHEATON'S INTERNATIONAL LAW, DANA'S EDITION, PAGES 166–168.

Whatever may be the nature and extent of the exemption of the public or private vessels of one state from the local jurisdiction in the ports of another, it is evident that this exemption, whether expressed or implied, can never be construed to justify acts of hostility committed by such vessels, her officers and crew, in violation of the law of nations, against the security of the state in whose ports she is received, or to exclude the local tribunals and authorities from resorting to such measures of self-defense as the security of the state may require.

This just and salutary principle was asserted by the French court of cassation in 1832 in the case of the private Sardinian steam-vessel the *Carlo-Alberto*, which, after having landed on the southern coast of France the Duchess of Berry and several of her adherents, with the view of exciting civil war in that country, put in a French port in distress. The judgment of the court pronounced upon the conclusions of M. Dupin, ainé procureur-général, reversed the decision of the inferior tribunal, releasing the prisoners taken on board the vessel, on the following grounds:

(1) That the principle of the law of nations according to which a foreign vessel, allied or neutral, is considered as forming part of the territory of the nation to which it belongs, and consequently is entitled to the privilege of the same inviolability with the territory itself, ceases to protect a vessel which commits acts of hostility in the French territory, inconsistent with its character of ally or neutral; as if, for example, such vessel be chartered to serve as an instrument of conspiracy against the safety of the state, and after having landed some of the persons concerned in these acts, still continues to hover near the coast, with the rest of the conspirators on board, and at last puts into port under pretext of distress.

(2) That supposing such allegation of distress be founded on fact, it could not serve as a plea to exclude the jurisdiction of the local tribunals taking cognizance of a charge of high treason against the persons found on board after the vessel was compelled to put into port by stress of weather.

No. 702.

Mr. Preston to Mr. Bayard.

[Telegram.]

NEW YORK, *November* 6, 1888. (Received November 6.)

SECRETARY OF STATE,
Washington, D. C.:

American steamer *Saginaw* cleared Saturday from New York for Dominican ports. On Sunday took arms and ammunition, not on manifest, for Cape Haytien; sailed yesterday morning, but remained in lower bay until evening, where took arms and munition, also insurgent general, with other officers, engaged in United States. Had case reported Collector Magone, who ordered revenue-cutter to stop vessel, but was too late. In view of preventing further complications, if Department allows me, would suggest that telegram sent this day via Kingston, Jamaica, would reach *Boston* at Port au Prince on the 8th.

STEPHEN PRESTON.

No. 703.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, November 13, 1888. (Received November 14.)

Mr. SECRETARY OF STATE:

I have the honor to transmit to you, herewith inclosed, a copy and the original of the letter of General Légitime to his excellency the President of the United States, informing him of his elevation to the high charge of chief of the executive power of the Republic of Hayti.

Praying you to transmit the aforesaid letter to its high destination, I have the honor to offer to you, Mr. Secretary of State, the renewed assurances, etc.,

STEPHEN PRESTON.

[Inclosure.]

F. D. Légitime, Chief of the executive power of the Republic of Hayti, to his excellency the President of the Republic of the United States of America.

GREAT AND GOOD FRIEND: Chosen by the vote of the National Constituent Assembly, in its session of the 16th of October instant, to the high post of chief of the executive power of the Republic, I entered on the 17th upon the performance of the charge which has been intrusted to me.

In bringing this event to your excellency's knowledge, I am happy to give you the assurance that I shall make constant efforts to maintain and fortify still more the relations of cordial amity existing between Hayti and the United States of America. With satisfaction I embrace this occasion to testify to your excellency my high esteem and my perfect friendship, and to express to you my wishes for your happiness and the prosperity of the American Nation.

I am, great and good friend, your excellency's sincere friend,

F. D. LÉGITIME.

Done at the palace of the executive power at Port au Prince the 27th of October, 1888.

No. 704.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, November 14, 1888. (Received Nov. 15.)

The undersigned, envoy extraordinary and minister plenipotentiary of Hayti, has the honor to bring to the attention of the honorable Secretary of State of the United States the following papers relative to the capture of the steamer *Haytian Republic*, which he has received by the last mail from Port au Prince. They are: (1) Procès verbal;* (2) notice of blockade;† (3) reply of Mr. Thompson.†

The undersigned will make it his duty to transmit to the honorable Secretary of State all the other papers of this procedure, which he hopes to receive by the next mail.

* See inclosure to Document No. 682, *ante*, p. 963. † See Document No. 664, *ante*, p. 929.

The undersigned awaits the receipt of the entire set of papers relating to the affair before submitting to the honorable Secretary of State his full views on the question.

And while awaiting this new communication, he hopes that the honorable Secretary of State of the United States, especially in view of the very grave declarations of certain witnesses contained in the subjoined paper (marked Annex No. 1), will suspend all decisions in the matter.

The undersigned, etc.,

STEPHEN PRESTON.

No. 705.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,
Washington, November 16, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant, transmitting copy and original of a letter addressed to the President of the United States by General F. D. Légitime touching his assumption of executive power in Hayti, with request that the same be delivered to the President.

Following established precedents in cases where the titular government of a country with which the United States maintain relations of peace and friendship has yielded to revolution and domestic conflicts of opposing factions have supervened, this Government, while maintaining intercourse with the local authority in possession, reserves its formal recognition of the government, claiming titular succession until it is established.

The reception of General Légitime's letter by the President is therefore deferred for the present, awaiting the course of events.

It is sincerely hoped that the blessings of law and order under a government satisfactory to the people of Hayti may soon be established in that island.

Accept, etc.,

T. F. BAYARD.

No. 706.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, November 19, 1888. (Received November 20.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, has the honor to communicate to the honorable Secretary of State of the United States the decision* of the prize court sitting at Port au Prince, *In re* the Republic of Hayti *vs.* The steamer *Haytian Republic.* It appears from this decision that prize has been found to be good and valid. This document will very soon form the subject of a further communication to the honorable Secretary of State of the United States, in which the undersigned proposes to ex-

* For decision, see inclosure to Document No. 682, ante, p. 967.

amine the various aspects of the question, or rather of the numerous questions, which have been raised by this proceeding. This work, however, requires a little time, since the authorities and the precedents governing the matter must be carefully examined. The undersigned will therefore confine himself for the present to stating the following propositions:

(1) No decision of a prize court becomes final without an appeal duly taken has been decided by the court having appellate jurisdiction; even in case no appeal has been taken, there can be no diplomatic action until a decision has been rendered by the court of appeals. And, if the undersigned is correctly informed on the subject, the interested parties are presumed to have recognized the validity of the decision when there has been no appeal, and when the original decision has become final owing to the fact that no appeal has been taken.

Hence the undersigned concludes that in the present case there can be no ground for any action on the part of the United States Government in behalf of the owners of the captured vessel. It seems to him that it is necessary to await the result of the appeal or to ascertain whether the claimants waive an appeal.

(2) Supposing for an instant that the court of appeals should reverse the decision of the prize court at Port au Prince, it would nevertheless appear from the evidence produced on the trial that the steamer *Haytian Republic* has transported one or more armed expeditions; that it has carried certain dispatches for the insurgents; that it has violated the very principles on which the security and sovereignty of the country rest; consequently the officers of the steamer would then be liable to a criminal action before the ordinary courts. And if it should be decided on appeal that the prize court was not competent, then the criminal court at Port au Prince would be so beyond a doubt. This principle has been established in the United States in several instances, among others in the case of The United States *vs.* Pender & Rand. (See the Federal Reporter for 1883.)

(3) Any claimant, in order to be entitled to the intervention of his Government, must prove that he is not guilty of any crime. This point is one of those that were so learnedly discussed and decided by the honorable Secretary of State in the case of Antonio Pelletier *vs.* The Republic of Hayti. The undersigned does not therefore deem it necessary to examine it here.

Consequently, if it is proved (and there is no doubt that in the case of the *Haytian Republic ex parte* evidence to this effect has already been furnished) that the said steamer has violated the rights of Haytian sovereignty, it can in no case claim the interposition of the United States Government. It is not in a position to do this unless it can show at once that the acts which are attributed to it, and which thus far it has made no attempt to deny, were really never committed by it, or unless the officers of the said steamer can explain them satisfactorily. Finally, it will also be necessary for Captain Compton to furnish a satisfactory explanation of his refusal to exhibit the ship's papers and all the other circumstances that tend to show that his responsibility in this matter is very grave.

The undersigned will now confine himself to these preliminary remarks, and, in conclusion, he begs the honorable Secretary of State to wait, before examining the merits of the question, until he has had time to present his further remarks relative to the decision pronounced on the 31st ultimo by the prize court at Port au Prince.

The undersigned has the honor, etc.,

STEPHEN PRESTON.

[Inclosure.—Translation.]

COPY OF THE SUMMONS TO CAPTAIN COMPTON AND MR. METZGER.

In the year one thousand eight hundred and eighty-eight, the twenty-seventh October, at a quarter before two o'clock in the afternoon, at the instance of Mr. Emanuel Léon, a member of the bar of Port au Prince, residing and domiciled in this city, acting in the name and for the account of the Haytian Government, in his capacity as the representative before the special prize court, I, the undersigned, Valmont Viljoint, sworn bailiff, matriculated at the civil court of Port au Prince, residing and domiciled in this city, having been designated for this purpose, summoned (1) Mr. David S. Compton, captain of the *Haytian Republic*, residing and domiciled at Boston, now in the roadstead of Port au Prince, on board of said steamer, where he was, and speaking to his person; (2) Mr. John D. Metzger, agent of the "Hayti Mail Steamship Line," domiciled at Boston, residing at Port au Prince, at his residence, where he was, and speaking to his person, to appear on Tuesday, the thirtieth day of October, at nine o'clock in the morning, before the members of the prize court established at Port au Prince, and sitting in the room of the court of commerce, situated in Bonne Foi street, in order:

Whereas during the existence of a state of war it is the duty of neutrals to abstain from all participation in the contest that is going on;

Whereas the American steamer *Haytian Republic* has violated those principles of neutrality by transporting troops, arms, and emissaries for the account of the insurrection;

Whereas those acts furnish sufficient reason to consider that vessel as being hostile;

Whereas on the sixteenth day of October the provisional government declared the ports of the Cape, St. Marc, and Gonaïves to be blockaded; whereas due notice thereof was given to the representatives of the neutral powers, and the decree announcing the blockade was published in all the towns of the Republic; whereas when the steamer *Haytian Republic* appeared off the port of St. Marc, that port was blockaded;

Whereas the blockade was effective, since the Haytien advice vessel *Dessalines* guarded the entrance; and whereas the *Haytian Republic* must have eluded the vigilance of the blockading forces, and have taken advantage of its superior speed so as not to be sunk;

Whereas signals were made to it, and six cannon shots, with ball, were fired at it for the purpose of stopping it, which acts constitute a sufficient special notice of a blockade;

Whereas the vessel was captured just as it was sailing out of the port of St. Marc, into which it had forced an entrance, and to which it had borne dispatches;

Whereas numerous evidences confirm its illegal participation in the acts of the insurrection of the north; whereas the captain refused to show his papers, or to allow his vessel to be searched by the examining judges, which he did in order to conceal the papers that were likely to compromise him; and whereas he also refused to allow seals to be placed upon his vessel;

Whereas a delegation consisting of leaders of the insurrectionary movements is still on board of his vessel, and was there at the time when the capture took place;

Whereas the violation of a blockade is an offense which is provided for and made punishable by international law;

To hear sentence pronounced upon them, the one to be condemned to the forfeiture and relinquishment of the vessel under his command, which is to be awarded to the Haytian Government, to which it has occasioned great injury, and the cargo thereof to be confiscated; the other for the company whose representative he is, to the forfeiture and relinquishment of the vessel, which is to be awarded to the Haytian Government, to which it has occasioned great injury, the cargo thereof to be confiscated.

All damages reserved that may hereafter be claimed by the plaintiff.

To the end that they may not be ignorant hereof, I have, at the places aforesaid, and speaking to them as above stated, left with them a copy of this paper.

VILJOINT.

Registered at Port au Prince on this 29th day of October, 1888, fol. 202, Vol. C, 1959 of registered A, No. 1 of judicial instruments.

The D. T. of registration.

[L. S.] AUG. A. HERAUX.

Examined.

N. L. LAFONTANT,
Inspector.

A correct copy.

[L. S.] CHARLES A. PRESTON,
Secretary of Legation.

No. 707.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, November 24, 1888. (Received November 26.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, has the honor to invite the attention of the honorable Secretary of State to the inclosed affidavit of the Hon. E. D. Bassett.

This document scarcely needs any comment. It establishes the co-operation of the consul of the Dominican Republic in two important shipments of contrabands of war belonging to and destined for the Haytian insurgents.

The learned Secretary of State is aware of the stipulations contained in the treaty between the Republic of Hayti and the United States; he knows that the twentieth article thereof prescribes that "the liberty of navigation and commerce shall extend to all kinds of merchandise excepting those only which are distinguished by the name of contraband of war." The article enumerates the merchandise comprised under this general designation of contraband of war. Moreover, the twenty-first article prescribes as follows:

> All other merchandises and things not comprehended in the articles of contraband explicitly enumerated and classified as above shall be held and considered as free and subjects of free and lawful commerce. * * *

It is evident from these two articles that in time of war the exportation of contraband of war destined for a Haytian port is purely and simply prohibited. And if these articles constitute an important derogation from the generous principles which in the United States regulate the exportation of contraband of war, the undersigned is well aware with what uprightness and loyalty the Federal Government stands ready to fulfill the conventional obligations which flow from treaties concluded with other powers, and therefore he will confine himself in this relation to the following observations:

In fact, neither Hayti nor the Dominican Republic admit the liberty of commerce in arms in time of war or even in time of peace. This commerce constitutes in both the countries named an exclusive privilege reserved to their Governments alone. When, therefore, arms, munitions, in a word, articles contraband of war, are exported from a port of the United States they should be either consigned to the Government itself, or at least they can not be received in the custom-house when imported without a special permit from the consul accredited in the port from which the shipment takes place.

The present course of procedure in this regard is as follows: In the port of New York, for example, whenever a shipment of arms is made, whether by Hayti or by the Dominican Republic, the vessel which carries it must be furnished with a special permit issued by the competent consul.

During this month of November the consul of Santo Domingo at New York, as appears from the deposition of Mr. Bassett, has twice issued permits of the character of those of which the undersigned has just made mention, for the purpose of authorizing shipments of arms to a small port of the Dominican Republic named Monte-Christi. An examination of the map and a simple glance—it matters not what work,

on geography—shows that this port, situated upon Dominican territory, is the nearest to the territory of Hayti, and, moreover, that the village which lies near the port in question has scarcely a thousand inhabitants. There is no commerce of any importance whatever with this out-of-the-way place. And, nevertheless, it is to this port that the two permissory certificates have been given by the Dominican consul at New York to the steamer *Saginaw*, which sailed from New York on the 6th instant, and to the steamer *George W. Clyde*, which sailed on the 20th instant.

Assuredly, if the Dominican Government had suddenly determined to make purchases of arms, even had it chosen therefor a time when the neighboring Republic is threatened with a prolonged civil war, such shipments would not have been consigned to Monte-Christi; they would have been sent to the seat of the Government itself, that is to say, to the city of Santo Domingo, which lies nearly 250 miles from Monte-Christi. But the strange conduct of the consul of the Republic of Santo Domingo becomes perfectly clear when we look at the acts which have recently taken place at New York, as they are set forth in the deposition of Mr. Bassett. The arms and other articles shipped to Monte-Christi have been notoriously bought at New York by one Papillon, a general in the service of the insurgents, or by his agents; the shipments are in the name of a New York house notoriously employed by the Haytian insurgents. The Dominican consul could not have been ignorant of this. Mr. Bassett had officially notified him of this, verbally and in writing.

These facts constitute, therefore, in the judgment of the undersigned, an act of gravity, to which he officially calls the attention of the honorable Secretary of State, and requests him to take, in regard thereto, the measures which he may deem adapted to prevent acts which amount, at least, to a grave abuse of consular functions. They are also altogether contrary to the conventions existing between Hayti and the Dominican Republic. But this aspect of the subject can not be presented to the Secretary of State, because it is beyond the jurisdiction of the United States.

The undersigned has the honor, etc.,

STEPHEN PRESTON.

[Inclosure 1.]

AFFIDAVIT OF EBENEZER D. BASSETT.

EBENEZER D. BASSETT, being first duly sworn, deposes and says:

(1) That he is an American citizen and consul-general of the Haytian Republic to this port.

(2) That as such consul, on or about the 31st of October, A. D. 1888, he called on Mr. L. Julia, consul of the Dominican Republic to this port, to inquire of him whether he, the said Julia, had authorized the steamer *Saginaw* to take on board, as part of its cargo, arms and ammunition for the port of Monte-Christi, near the boundary-line between Hayti and San Domingo; deponent further says that said Mr. L. Julia informed him that he was not aware that such a shipment was contemplated, and further that his Government had no arms to ship by the *Saginaw*.

(3) Deponent further says that he, being credibly informed that such shipment was being loaded on the *Saginaw*, wrote to said Mr. L. Julia a letter, a copy of which is attached hereto and marked Exhibit No. 1.

That in a short time deponent received a letter in answer to his from said Dominican consul, a copy of which letter is attached hereto and marked Exhibit No. 2.

That notwithstanding said official answer, deponent was then informed, and has been informed since, that Mr. L. Julia did deliver to the owners of the steamer *Sagi-*

naw a permit to receive a large quantity of arms and ammunition intended for Monte-Christi; that said *Saginaw* sailed on the 5th instant.

Deponent further says that it appears from the manifest of said *Saginaw*, filed with the custom-house of this city, that the packages of said arms and ammunition shipped as aforesaid, under virtue of the permit of said consul, bore the shipping marks , which are the initial letters of the names of Jimenes, Haustedt & Co., the shippers, and of Papillon, who are believed and known to be directly connected with the insurrection in the northern provinces of Hayti, the former as the financial agents and shippers in New York, and the latter as a general in the service of the insurgents.

Deponent further says that he is informed, and believes it to be true, that said Papillon arrived in New York on or about the 25th of October last, and that he sailed on the steamer *Saginaw* for Monte-Christi, and deponent is informed and believes that said Papillon has since landed at the aforesaid port of Monte-Christi.

Deponent further says that he is informed, and believes it to be true, that the aforementioned arms, shipped by the *Saginaw*, have been purchased in New York by said Haytian insurgents, had become then and there their property, and were actually intended for the northern ports of Hayti; but that in order to protect them from the risk of capture they were shipped to Monte-Christi; and that the aforestated arrangement could not have been successfully carried out except for the co-operation of the Dominican consul.

(4) Deponent further says that since the departure of the aforesaid steamer *Saginaw* a second shipment, of the same description as aforesaid, was made by said Jimenes, Haustedt & Co., and was permitted to leave this port under certificate of same character as that above referred to, issued by the same consul as aforesaid; that said invoice was shipped to Monte-Christi by the steamer *George W. Clyde*, which sailed from this port on the 20th instant.

EBENEZER D. BASSETT.

Sworn to before me this 23d day of November, 1888.

D. C. ANDREWS,
Notary Public, No. 60, New York.

[Inclosure 2.—Translation.]

The consul-general of Hayti to the consul of Santo Domingo.

CONSULATE-GENERAL OF HAYTI AT NEW YORK,
New York, November 2, 1888.

Mr. CONSUL AND DEAR COLLEAGUE: Confirming the conversation I have had with you upon the situation in Hayti, and in view of the alliance existing between the two Republics which we have the honor to represent in this city, I have to inform you that it has come to our knowledge that agents of the Haytian rebellion now in the United States are about to ship arms and munitions of war to Dominican ports under the pretext that they are intended for your Government.

We have reason to believe that these articles, after having been landed in some point in Santo Domingo, are to be sent to the territory or coast of Hayti, in violation of Dominican neutrality. In warning you of these facts, I count upon your benevolent co-operation, to the end that the good harmony between our countries may not be imperilled by adventurers, at the same time leaving to whom it may concern all official responsibilities.

Accept, etc.,

E. D. BASSETT.

[Inclosure 3.—Translation.]

The consul of Santo Domingo to the consul-general of Hayti.

No. 253.] CONSULATE OF THE DOMINICAN REPUBLIC AT NEW YORK,
New York, November 3, 1888.

Mr. CONSUL: I have had the honor to receive your polite communication of the 2d instant, wherein you are pleased to charge me to impede the shipment of certain arms which, under pretext of being for the Dominican Government, are intended for the Haytian revolutionists.

I have no knowledge, Mr. Consul, that any such shipment of arms has been attempted or made. But at the same time I permit myself to inform you that it does not pertain to this consulate to ascertain the ulterior effects of the merchandise which may be legally shipped for the ports of the Dominican Republic.

I can assure you that the Dominican Government will authorize no act which might compromise its neutrality as regards the Government of Hayti, and so diminish the good harmony which exists between the two Republics.

For my part, Mr. Consul, I am ready to oblige you in all that it may be proper for me to do, and I repeat to you my desires that the good relations between the two Republics which we have the honor to represent may not be interrupted.

Be pleased to accept, etc.,

L. JULIA.

No. 708.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,
Washington, November 28, 1888.

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, in which you inclose a copy of an affidavit of E. D. Bassett, esq., consul-general of Hayti at New York, in relation to the shipment of arms and munitions of war, as part of cargo, on certain steamers from that port to the port of Monte-Christi, in San Domingo, near the boundary line between that country and Hayti.

In communicating this paper you call attention to articles 20 and 21 of the treaty of November 3, 1864, between the United States and Hayti, to which you give the construction that by them the exportation of articles contraband of war from the United States, under the circumstances above stated, is completely prohibited, and request that this Government take steps to prevent such exportation to Hayti, directly or indirectly.

I regret that I am unable to concur with you in the construction which you have placed upon the two articles in question. It is not unusual to find in the treaties of the United States provisions defining what articles may be regarded as contraband of war between the contracting parties. I am not, however, aware that such provisions have ever been held to bind either Government to prevent its citizens from dealing in the designated articles, or from exporting them from its territory to that of any other country under any circumstances.

On the contrary, it is believed that the views maintained by this Government on the subject are correctly stated in the language of Mr. Jefferson, when Secretary of State, to the ministers of France and Great Britain, while war was flagrant between them. "Our citizens," said Mr. Jefferson, "have always been free to make, vend, and export arms."

Subsequent Secretaries of State, down to the present time, have reaffirmed this doctrine.

Since I am unable to perceive any conflict between it and the provisions respecting contraband of war in our treaty with Hayti, it seems unnecessary to discuss other points raised in your note.

Accept, etc.,

T. F. BAYARD.

No. 709.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,
Washington, November 28, 1888.

SIR: I have the honor to acknowledge the receipt of your respective communications of the 14th and 19th instant, in which you inclose copies of certain papers relating to the condemnation of the *Haytian Republic*, an American vessel, at Port au Prince, and the imprisonment of certain of her officers.

On the 26th instant the Department received a full report upon the case by the captain of the United States steamer *Boston*, who had just returned from Port au Prince to the port of New York.

Upon examination of the record and proceedings in the case, the Department is led to the conclusion that the seizure and detention of the vessel and the imprisonment of her officers have, from the beginning, been irregular and wrongful; that she should, without delay, be restored to her American owners, and her officers released from all detention; and that adequate compensation should be made to them and to the owners of the vessel for the loss and injuries they have suffered by reason of the proceedings in question.

It is unnecessary to discuss the charge of attempting to run a blockade, upon which allegation it is understood that the seizure of the vessel was originally made. Whether any valid blockade did or did not exist, it is clear that the *Haytian Republic* had and could have had no notice of it.

The *Haytian Republic* sailed from New York October 4, 1888, with cargo and mails for Turk's Island, Cape Haytien, Port de Paix, Miragoane, Aux Cayes, and Jacmel, and with mails for Gonaïves, St. Marc, and Port au Prince. Arriving at Gonaïves on the 16th of October, she sailed on the same day for St. Marc, and after a brief stop at that port proceeded to Miragoane, where she arrived on the 17th, discharged cargo, and sailed for Aux Cayes, where she arrived on the following day, the 18th. Thence she proceeded to Jacmel, where she arrived on the 19th, discharged cargo, and sailed on the same day for St. Marc.

The decree of blockade of the ports of Cape Haytien, Gonaïves, and St. Marc was resolved upon by the provisional government of Légitime on the 15th of October, and made known to the foreign representatives in Port au Prince on the following day, but was not published in the official paper, Le Moniteur, until the 18th of October.

The means of communication between Port au Prince, Miragoane, Aux Cayes, and Jacmel exclude the supposition that news of the proposed blockade could have reached Miragoane by October 17, Aux Cayes by October 18, or Jacmel by the 19th, and consequently the master of the *Haytian Republic* could not have been aware of any proclamation of blockade when, on October 19, he sailed from Jacmel for St. Marc. Indeed, it is known that no notice of blockade was sent to Jacmel at that time, as that city and district were not in sympathy with the provisional government of General Légitime at Port au Prince. Therefore even the usual and ordinary means of communication between Port au Prince and the ports proposed to be blockaded had been interrupted.

When the *Haytian Republic* was entering the port of St. Marc from the southward, late in the afternoon of the 20th of October, a steamer was sighted to the northward of the Bay of St. Marc, and it was afterwards observed that she was firing guns, but for what purpose was unknown.

Upon arriving in the port of St. Marc, the master of the *Haytian Republic* was informed by a pilot that the steamer which had been discerned outside was the Haytian man-of-war *Dessalines*, and that she was blockading the port. This was the first intimation from any source the captain or any officer of the *Haytian Republic* had of any blockade.

The *Haytian Republic* left St. Marc on the next morning, the 21st of October, and was captured outside by the *Dessalines*. It may be here observed that the commander of the *Dessalines* has made two reports of the capture—one submitted to the prize commission at Port au Prince, and the other published in Le Progrés of October 26, 1888—which are not entirely consistent. To this discrepancy, however, I do not desire further to advert.

It appears that after the *Haytian Republic* had entered the harbor of St. Marc, on October 20, and there received her first intimation of any blockade, she made no effort whatever to escape, although she could easily under cover of night or with her superior speed at any time have gotten away had her master seen fit to do so or had he had any ground for supposing such action desirable.

When she was stopped on the morning of the 21st of October, when coming out of the Bay of St. Marc, by the *Dessalines*, the commander of the latter sent a boat-load of armed men alongside and ordered her master to repair on board of the *Dessalines* with his papers.

No officer was sent on board of the *Haytian Republic* to examine her papers; and neither the papers, the ship, nor the cargo were examined. Mr. William Smith, the first officer of the *Haytian Republic*, was taken on board of the *Dessalines* with the passenger list and a statement as to the voyage of the vessel. He was detained on board of the *Dessalines* as a prisoner, and upon arrival at Port au Prince was sent to the office of the captain of the port, where he was held as a prisoner until set at liberty at the request of the United States minister.

The irregularity of these proceedings is manifestly shown. The treaty between the United States and Hayti of November 3, 1864, contains the following provisions:

ARTICLE XVIII. And whereas it frequently happens that vessels sail for a port or place belonging to an enemy without knowing that the same is either besieged, blockaded, or invested, it is hereby agreed by the high contracting parties that every vessel so circumstanced may be turned away from such port or place, but she shall not be detained, nor any part of her cargo, if not contraband, be confiscated, unless, after notice of such blockade or investment, she shall again attempt to enter; but she shall be permitted to go to any other port or place she shall think proper, provided the same be not blockaded, besieged, or invested. Nor shall any vessel of either of the parties that may have entered into such port or place before the same was actually besieged, blockaded, or invested by the other, be restrained from quitting such place with her cargo, nor, if found therein after the reduction and surrender of such place, shall such vessel or her cargo be liable to confiscation, but they shall be restored to the owners thereof.

The recital of these provisions in connection with the facts above stated renders comment unnecessary.

I next refer to Article XXIV of the same treaty, as follows:

In order to prevent all kinds of disorder in the visiting and examination of the vessels and cargoes of both the contracting parties on the high seas, it is hereby agreed that whenever a ship of war shall meet with a neutral of the other contracting party, the first shall remain at a convenient distance, and may send its boats, with two or three men only, in order to execute the examination of the papers concerning the ownership and cargo of the vessel, without causing the least extortion, violence, or ill-treatment, for which the commanders of the said armed ships shall be responsible with their persons and property; for which purpose the commanders of all private armed vessels shall, before receiving their commissions, give sufficient security to answer for all damages they may commit; and it is hereby agreed and understood that the neutral party shall in no case be required to go on board the examining vessel for the purpose of exhibiting his papers, or for any other purpose whatever.

And Article XXVII, which also provides:

That proper care may be taken of the vessel and cargo and embezzlement prevented in time of war, it is hereby agreed that it shall not be lawful to remove the master, commander, or supercargo of any captured vessel from on board thereof during the time the vessel may be at sea after her capture, or pending the proceedings against her or her cargo, or anything relating thereto; and in all cases where a vessel of the citizens of either party shall be captured or seized and held for adjudication her officers, passengers, and crew shall be hospitably treated. They shall not be imprisoned or deprived of any part of their wearing apparel, nor of the possession and use of their money, not exceeding for the captain, supercargo, mate, and passengers $500 each, and for the sailors $100.

From the above stipulations it is manifest that so far as the proceedings against the *Haytian Republic* rest upon a charge of attempting to run a blockade, they were in clear violation of the express terms of the treaty, and wholly improper and inadmissible.

Nor can the tribunal by which the charges against the *Haytian Republic* and her officers were examined be recognized by this Government as competent for that purpose. By the twenty-eighth article of the treaty above referred to it is provided that in matters of prize "in all cases the established courts for prize causes, in the country to which the prizes may be conducted, shall *alone* take cognizance of them."

The tribunal before which the *Haytian Republic* and her officers were brought was hastily improvised for the occasion and consisted of two commissioners specially appointed on the 21st of October, 1888, to examine the case of the *Haytian Republic*. It was in no sense "an established court for prize causes," as stipulated in the treaty, but had for its special and only authority the order of the provisional president, Légitime. Its proceedings had scarcely a feature of formality and regularity. The witnesses before it, whose statements were generally founded on hearsay and often palpably inconsistent with established facts, were not even sworn, and no opportunity was given for defense, although the reasonable delay of four days, two of which were holidays, was requested for that purpose and refused.

Such proceedings appear only the more indefensible when it is considered that the provisional president, Légitime, and his minister for foreign affairs now set up a violation of the municipal law of Hayti as the ground of the condemnation of the vessel and the imprisonment of her officers. The professed character of the commission was that of a "prize court," and it is so styled in your notes, to which I have the honor now to reply. The trial of an alleged violation of Haytian municipal law was thus wholly outside its competence. As a tribunal for the examination of such a charge its proceedings were thus not only confessedly without jurisdiction, but destitute of regularity, and also palpably violative of the provisions of the sixth article of the treaty of 1864, which guaranties to citizens of the United States access to the ordinary courts of justice, and full opportunity to defend their rights and interests before them.

A prize court is not a court of criminal jurisdiction. "The condemnation of a vessel and cargo" (Bates, Attorney-General, 10 Opin. Atty. Gen'l, 453) "in a prize court is not a criminal sentence. No person is charged with an offense; and so no person is in condition to be relieved and re-instated by a pardon."

To such proceedings as those of the special Haytian commission above described, it is the opinion of the Department that the doctrines set forth in your note of the 19th instant, in relation to appeals from the decisions of prize tribunals, have no application. Such rules can be held to apply only to the procedureof regularly established courts

acting within the limits of their competency, and from whose decisions appeals are provided for. It can not be admitted that the decrees of an extraordinary commission, which assumes to act in disregard of treaties and the law of nations, must stand unquestioned as a subject for judicial review, or that the persons who have been deprived of their property or of their personal freedom by such decrees are bound to seek judicial relief. Those doctrines apply only to the regular and formal proceedings of the established judicial courts of a country, acting according to recognized principles of justice. In other cases relief and redress may be obtained by direct appeal to the Government of the individuals whose rights of person and property have been invaded.

Another feature of the case of the *Haytian Republic*, to which I have not adverted because other irregularities rendered it superfluous, is that of the place of her seizure. From the best information which the Department is able to obtain it is believed that the capture of the vessel took place about 6 miles from the nearest point of land. It is unnecessary to comment further than to say that if the capture was made outside the territorial waters of Hayti the inadmissibility of a trial for an offense against the municipal law of Hayti would be obvious, aside from any question as to the character of the tribunal before which the case was brought.

In the confusion which has marked the condition of affairs in the Republic of Hayti within the last few weeks one President, long and formally recognized by the United States, has been forcibly overthrown and, together with his ministers, driven from the country; a provisional government was then formed under the presidency of Boisrond Canal, of which General Thélémaque, chief of the army of the revolution, and a promising candidate for the presidency, and Senator Légitime, another candidate, were both members.

Before a regular election of President could be held General Thélémaque lost his life and Senator Légitime was elected President by the votes of certain persons, only to find himself confronted by a revolutionary committee, who, at last accounts, held possession of a majority of the ports and perhaps the larger part of the territory of the Republic. In the midst of such bloody contentions and the various factional attempts to obtain power it is unjust and unreasonable that merchant vessels of the United States should be made the victims of such lawless proceedings.

Local supremacy in Hayti thus shifts from week to week, and from hand to hand, so rapidly and unexpectedly that it would be wholly unreasonable and impossible to subject the merchant marine and citizens of other countries, who find themselves so surrounded by factions contending violently for mastery, to extreme penalties, because of their alleged favor to either side, or because of their necessary and enforced acquiescence in the demands of factions locally and temporarily in power.

The rights of person and property of American citizens engaged in business in Hayti can not be permitted to become the foot-ball of contesting factions and their evanescent authority; and the protecting arm of the United States will be interposed for their security. By this it is not intended to include cases of deliberate intermeddling in local conflicts, but merely to rescue our citizens, who may be caught in the eddies of local sanguinary émeutes.

The defects and misfortunes of the Republic of Hayti must not be visited upon the citizens of a friendly country, who have contributed in no way to the unhappy condition of affairs with which they find themselves unexpectedly confronted.

The voyage of the *Haytian Republic* was commenced on October 4 from the United States, with peaceful and lawful intent, and with no knowledge of Haytian disorders or desire to mingle in Haytian disputes.

On her voyage from Port de Paix to Gonaïves, on October 15–16; from Gonaïves to Miragoâne, on October 16–17; and from the latter port to Aux Cayes, on October 17–18, it is true that she transported as passengers persons variously armed, and, as is supposed, in sympathy with those in possession of the districts in which the ports above named are situated. In such transportation she met with no interference or protest, and merely acted as a common carrier of passengers whom she found awaiting transportation in the ports at which she traded. Such action can not be regarded as constituting complicity in Haytian disorders; and, at the time that the vessel was seized by the *Dessalines* in the service of Provisional President Légitime, at Port au Prince, the persons whom she had thus carried had been left at their ports of destination and she was proceeding on her voyage.

The Department has just received dispatches from the United States consul at Cape Haytien, one of the ports included in the proclamation of blockade, to the effect that foreign commerce is open at that port, and that merchant vessels enter and depart with cargoes without restriction.

In view therefore of what I have herein fully laid before you I desire to express, under the direction of the President, his confident expectation that, without delay, the steamer *Haytian Republic* will be released by the authorities at Port au Prince and returned to the custody of her officers and crew, and that investigation may be at once commenced to ascertain the injuries inflicted upon the owners of the vessel, and also upon the captain, officers, and crew in the course of this illegal and most regrettable interference with their rights.

Accept, Mr. Minister, the renewed assurance of my highest consideration.

T. F. BAYARD.

No. 710.

Mr. Preston to Mr. Bayard.

[Translation.]

LEGATION OF HAYTI,
Washington, November 30, 1888. (Received December 1.)

The undersigned, envoy extraordinary and minister plenipotentiary of the Republic of Hayti to the United States, begs to call the attention of the Hon. Thomas F. Bayard to the recent incidents which have occurred in regard to the affair of the steamer *Haytian Republic.*

The dispatches which the undersigned has received this very day from his Government have informed him that on the 15th of this month the Hon. John E. W. Thompson, minister of the United States to Port au Prince, has informed the Government of the undersigned that the case of the steamer *Haytian Republic* was referred to the Government of the United States.

At the same time his Government has given instructions to the undersigned to examine and to arrange, if it were necessary, this affair in concert with the honorable the Secretary of State of the United States.

In this situation of affairs the undersigned declares himself ready to proceed without delay. He begs, therefore, that the honorable Secretary of State of the United States will inform him of the opinion of his Government upon the affair of the *Haytian Republic*, which, by the acts approved before a prize tribunal regularly constituted, has been duly condemned.

Confiding in the wisdom and moderation of which the honorable Secretary of State has given him so many proofs, the undersigned will receive and examine the observations of the honorable Secretary of State with all the attention that they deserve; and he will make it his duty on his part to pursue the affair with the most sincere desire to terminate promptly and in the spirit of justice which animates the two Governments.

The undersigned has the honor to renew to the Secretary of State the assurances of his very high consideration.

STEPHEN PRESTON.

No. 711.

Mr. Bayard to Mr. Preston.

DEPARTMENT OF STATE,
Washington, December 1, 1888.

SIR: I have the honor to acknowledge the receipt this morning of your note of the 30th ultimo, informing me of the advices you have received from the Haytian authorities you represent to the effect that the United States minister at Port au Prince had been requested to make known to his Government that the case of the steamer *Haytian Republic* had been referred to the Government of the United States.

Mr. Thompson's dispatch reporting this circumstance was received yesterday, and I was thus enabled to anticipate the request you now make, to be informed of the opinion of this Government in the matter of the *Haytian Republic*, by addressing you my note of the 28th ultimo on the subject.

The desires you express in the note which I now have the honor to acknowledge, for a speedy termination of the matter in view of the deferential submission thereof to this Government, which you announce and confirm, lead me to look for your prompt acquiescence in the conclusions which this Government has been constrained to reach, and to confidently regard this question as virtually settled.

Accept, sir, the renewed assurance of my highest consideration.

T. F. BAYARD.

No. 712.

Mr. Preston to Mr. Bayard.
[Translation.]

LEGATION OF HAYTI,
Washington, December 3, 1888. (Received December 4.)

The undersigned, envoy extraordinaryand minister plenipotentiary of the Republic of Hayti, has the honor to acknowledge the receipt of the note which the honorable Secretary of State has addressed to him on

the 28th of November ultimo, on the subject of the affair of the steamer *Haytian Republic.*

On the same date the undersigned, for his part, communicated to the Secretary of State that he had received instructions from his Government relative to the same affair.

The undersigned hopes to be in a position to send to the Secretary of State, in a very few days, his reply to the note of the 28th of the past month.

The undersigned has the honor to renew to the Se retary of State the assurances of his very high consideration.

STEPHEN PRESTON.

No. 713.

Award of the referee in the matter of the claim of Charles Adrian Van Bokkelen, a citizen of the United States, against the Republic of Hayti.

In pursuance of the protocol, dated May 24, 1888, between Hon. Thos. F. Bayard, Secretary of State of the United States, and the Hon. Stephen Preston, envoy extraordinary and minister plenipotentiary of the Republic of Hayti, representing their respective Governments, after having made a declaration that I would impartially and carefully examine and decide the case submitted to me, in good faith, to the best of my judgment, and conformably to the principles of law applicable thereto, I have investigated the claim of Charles Adrian Van Bokkelen, a citizen of the United States, against the Republic of Hayti, and I now make the following statement and *award:*

CLAIM OF CHARLES ADRIAN VAN BOKKELEN.

This claim grows out of the imprisonment, during the years 1884 and 1885, at Port au Prince, of Charles Adrian Van Bokkelen, a citizen of the United States, by the authorities of the Republic of Hayti. The imprisonment continued for a period of nearly fifteen (15) months; and the claim made on behalf of Van Bokkelen is in the form of a demand upon Hayti for pecuniary indemnity in the sum of one hundred and thirteen thousand six hundred dollars ($113,600).

Although the essential facts are within a small compass, and the question submitted for decision to the referee is single and explicit,* the case has been the subject of a multiplicity of proceedings and pleadings, judicial, executive, and diplomatic; and has given rise to voluminous correspondence and elaborate argumentation on the part of the two Governments.

In the disposition of this case I shall confine myself as closely as may be practicable to a presentation of the essential matters, and to the determination of the single and explicit issue suggested by the terms of the protocol. It is proper, however, to state here, that at an early stage of the submission of this case to me as referee, a demurrer was interposed by the defendant Government, and an elaborate brief was presented in support of said demurrer. After consideration of this brief, I notified counsel for the defendant Government that there was no provision under the submission for special pleading, and that the protocol specified and indicated in express terms the subject-matter and the question

* Protocol, May 4, 1888, articles 1 and 2.

submitted for determination. As a matter of fact, the argument which was entitled, "Brief on behalf of defendant Government in support of demurrer," is a full and exhaustive exposition of the material points relied on by the defense, and covers fifty-five (55) type-written folios.

In addition, the limitation of time within which the referee was required to render his decision precludes the idea of the interposition of special pleading.

And further as to the propriety of a demurrer, general or special, under this arbitration it is to be said that a State, like an individual, accused of having inflicted wrong upon another, may shape its defense against the charge with reference to the *facts*, or to the *law*.* Under the terms of the protocol, as well as from the correspondence heretofore passed between the contracting parties, it seems clear that there is not now and never was any denial by the defendant Government of the substantive *facts* which give rise to this claim.

Subsequently complainant Government and the counsel for the respective Governments were notified that I desired briefs on the subject of the measure of damages. These additional briefs were duly filed and have been considered.

The defense set up by the defendant Government is rested upon a collision between the treaty and certain articles in the municipal codes of Hayti. And this issue may only be determined by reference to the treaty stipulations and to the provisions contained in the municipal statutes.

STATEMENT OF FACTS.

Charles Adrian Van Bokkelen was a citizen of the United States, who, prior to the year 1872, resided in Brooklyn, N. Y. In that or the following year he went to Hayti and established himself in business at Port au Prince. In 1880 he married a Haytian lady, the widow of General P. Lorquet, an owner of real estate in Hayti in her own right. There were two children of this marriage, who, with their mother, reside at Port au Prince.

On the 15th of February, 1883, having sustained severe losses in his business, and a judgment against him having been affirmed in the court of cassation, which he was unable to pay, and under which he was liable to be imprisoned for one year, he filed a schedule of his assets and liabilities in the civil court of Port au Prince, preparatory to applying for the benefit of judicial assignment, under which, in Hayti, an honest but unfortunate debtor is allowed to surrender all his property for the benefit of his creditors, and is entitled to be discharged from prison, if he has been arrested, and to be free from arrest thereafter on account of his existing indebtedness. At that time, in Hayti, imprisonment for mere debt had not been abolished.

Three other judgments were subsequently recovered against Van Bokkelen, two in favor of the Bank of Hayti and one in favor of J. Archin, under each of which he was liable to three years' imprisonment in default of payment, making ten years in all. A fifth judgment was rendered against him in favor of St. Aude, jr., which does not seem to have decreed any imprisonment. These judgments are enumerated in Mr. Langston's dispatch of January 14, 1885, to Mr. Frelinghuysen, and it is there stated that the terms of imprisonment fixed in three of the judgments are twice as long as would have been imposed in the case of a Haytian.

* Phillimore, International Law, Volume III, third edition, page 64.

After the filing of Van Bokkelen's schedule, which was duly recorded by the clerk of the civil court in Port au Prince, on the 15th of February, 1883, the proceedings seem to have been postponed by notices of writs until the following year.

On or about the 5th of March, 1884, Van Bokkelen was arrested on the judgment of Toeplitz & Co., and confined in the common jail of Port au Prince. Although imprisonment for debts, irrespective of fraud in contracting them or evading their payment, was then lawful in Hayti, there seems to have been no separate prison for debtors. The character of the common jail, and of the military hospital in which Van Bokkelen was confined, and the state of his health when he was incarcerated, will be noticed hereafter in connection with the question of damages.

Van Bokkelen protested against his arrest as illegal, on the ground that by an order of the Haytian authorities, published in the official journal, "it was made obligatory that before a foreigner could be placed in jail the complaint should first be submitted to the attorney for the Government for his examination and approval, and (should be) signed with his signature, with seal attached." On the 18th of the same month it was judicially determined that Van Bokkelen's arrest was it legal. But before he was discharged other creditors, availing themselves of a provision of Haytian law under which, when a debtor is imprisoned, they can keep him in jail by "recommending" him, recommended him accordingly, and the jailor refused to discharge him.

It is to be noted that these creditors took advantage of Van Bokkelen's illegal imprisonment to keep him from getting out of jail by a method which would not have enabled them to put him in.

Van Bokkelen thereupon, through his counsel, applied to the civil court of Port au Prince for the benefit of judicial assignment.

He had been advised that under the treaty of 1864 between the United States and Hayti he was entitled to the benefit of judicial assignment the same as if he were a citizen of that country.

In the proceedings upon Van Bokkelen's petition to the civil court of Port au Prince for the benefit of judicial assignment, twelve of his creditors appeared, and all but two assented.

These opposing creditors raised various objections, but insisted mostly on article 794 of the Code of Civil Procedure and article 569 of the Code of Commerce, which expressly exclude foreigners (*les étrangers*) from the benefit of this provision of Haytian law.

All the objections of the opposing creditors were traversed by the petitioner. His counsel argued that the schedule of his assets and liabilities was sufficient; that his misfortunes and good faith were manifest; that the treaty of 1864 between Hayti and the United States repealed article 794 of the Code of Civil Procedure and article 569 of the Code of Commerce so far as the disability attaching to the petitioner in his character of American citizen or foreigner was concerned. This he argued at length, and also claimed that inasmuch as the petitioner had established himself at Port au Prince in business and married a Haytian wife, who owned real property in the city and had borne him children, having thus fixed his home as well as his commercial interests in Hayti with the knowledge of the Government, a just construction of the term "*les étrangers*" required that he should not be treated as a foreigner or a stranger, but as a domiciled merchant entitled to all civil rights and privileges as distinguished from those that are political; and in support of the proposition that the exercise of civil rights is independent of the exercise of political rights, and that "the capacity of a citizen

resides in the combination of civil and political rights," he cited article 11 of the Civil Code of Hayti.

The opposing creditors (Toeplitz & Co.) rejoined that they had no knowledge of the treaty and had not been served with a copy; and therefore moved for information in that regard at the cost of the petitioner. Petitioner's counsel replied that the treaty was not a document, but a law of which no one was supposed to be ignorant.

It appears also that the Government of Hayti, as well as all the parties to these proceedings, was represented by counsel and heard by the court.

The first question that the court decided was "whether the petitioner should be condemned to furnish to Toeplitz & Co. information regarding the treaty concluded between Hayti and the United States of America, and whether such information should likewise be furnished to Louis Nadal." That question the court decided in favor of Van Bokkelen, as follows:

Whereas a treaty, concluded between Hayti and the United States of America, November 3, 1864, sanctioned by the Senate, and promulgated by the executive branch of the Government, is a law of the State;

Whereas article 75 of the Code of Civil Procedure renders it obligatory upon the petitioner to furnish a copy of the documents or of that part thereof upon which the petition is based; but it does not provide that a copy of the law or of the provision of the law on which the petition is based shall be furnished;

Whereas, thus, Mr. C. A. Van Bokkelen is not obliged to furnish information of the treaty to Louis Nadal, and can not be condemned to furnish such information to Toeplitz & Co., who are under obligations, just as C. A. Von Bokkelen is, to have knowledge of the law.

On the main question, involving the rights of Van Bokkelen under the treaty, and deciding upon the objection of his alienage based upon article 794 of the Code of Civil Procedure and article 569 of the Code of Commerce, interposed by L. Toeplitz & Co. and by Louis Nadal, the court, after having deliberated, denied Van Bokkelen's application.

His application to make the judicial assignment having been denied by the civil court of Port au Prince, Van Bokkelen was kept in jail. He appealed to the court of cassation—the court of last resort—which rendered its decision affirming the judgment of the civil court on the 26th of February, 1885, almost a year from the time when Van Bokkelen was first imprisoned. It seems that pending his appeal the time within which further objections could be made by his creditors to his petition expired on the 21st of October, 1884, and that no one, not even the parties upon whose application he had been illegally arrested the previous March, made any opposition. This fact is stated in a letter from Van Bokkelen's father to Mr. Frelinghuysen, who was then Secretary of State, dated November 15, 1884, a copy of which was transmitted by Mr. Davis, Acting Secretary, to Mr. Langston, United States minister at Port au Prince, November 19, 1884.

The Secretary of State of the United States was informed of this decision on the 21st of March, 1885, and on the 28th of the same month he sent a dispatch to the United States minister at Port au Prince, in which, after reviewing the facts and the law, he claimed that there had been a denial of justice in Van Bokkelen's case, and that he should be released from jail forthwith, in the following terms:

The release of Mr. Van Bokkelen is now asked on independent grounds. It is maintained, first, that continuous imprisonment for debt, when there is no criminal offense imputed, is contrary to what are now generally recognized principles of international law. It is maintained, secondly, that the imprisonment of Mr. Van Bokkelen is a contravention of articles 6 and 9 of the treaty of 1865 between the United States and the Republic of Hayti.

The Haytian Government has a clear and ample opportunity to relieve this case from all difficulty by recognizing the error of their courts in supposing that the privilege of release of an imprisoned debtor would be denied to a Haytian citizen by the United States courts upon making assignment of his property for the benefit of his creditors.

You are now instructed to earnestly press the views of this Government, as outlined in this instruction, on the early attention of the Government of Hayti by leaving a copy thereof with the minister of foreign affairs.

The response of the Government of Hayti should be promptly communicated to this Department.

On the 17th of April, 1885, Mr. Langston sent a copy of this dispatch to the Haytian Government and urged the prisoner's immediate release, inviting attention also to his "feeble and failing health." The reply of the Haytian Government, twelve days later, was an elaborate defense of Van Bokkelen's imprisonment—solely, however, upon the ground that he was an alien.

Meanwhile, and shortly after the decision of the court of cassation, the prisoner, who, at the request of the United States minister, had been removed to the military hospital on account of his infirm condition, was sent back again to the common jail. On the 15th of May the United States minister sent another note to the Haytian Government, insisting on Van Bokkelen's immediate release, and on the afternoon of the 27th of that month Van Bokkelen was conducted to the United States legation by an attorney of the Haytian Government, "on its order, as stated, and thus given his release and liberty." On the 5th of the following June, Mr. Langston received a note from the Haytian secretary of state for foreign affairs, maintaining the position which had been held throughout by the Haytian Government, and closing as follows:

I understand that Mr. Van Bokkelen has been put at liberty. This result, happy for him, is due, doubtless, to some arrangement made with his creditors. This, besides, to which I will not address myself further, as it is not proper, has itself, as you will understand, been accomplished without interference of the executive power; it comes to pass without saying that it annuls in no wise the considerations which this department has plead relative to the case of Van Bokkelen.

Pending Van Bokkelen's appeal to the court of aassation, the Department of State, upon representations of the United States minister at Port au Prince in regard to the adjudged illegality of the arrest in the first instance, and the prisoner's unquestionable right under the treaty to make the judicial cession and obtain his release, had instructed the minister to use every proper effort with the Haytian Government to that end.

Mr. Van Bokkelen sailed for the United States shortly after his release, and on his arrival made a statement of his case to the Secretary of State and an appeal for his good offices in collecting indemnity from the Haytian Government. In response, Mr. Bayard addressed a note to the United States minister at Port au Prince, dated October 2, 1885, instructing him as follows:

Mr. Bayard to Mr. Thompson.

DEPARTMENT OF STATE,
Washington, October 2, 1885.

SIR: I herewith inclose a copy of a letter from Mr. C. A. Van Bokkelen, of the 19th ultimo, in reference to his illegal imprisonment at Port au Prince and his claim for damages in consequence thereof.

In view of Mr. Van Bokkelen's present statement of facts and those already before your legation in regard to his case, I desire that you will call the attention of the Government of Hayti to his claim. There can be no doubt that Mr. Van Bokfielen was wrongfully imprisoned by the Haytian authorities, and that great damage accrued to him thereby.

Under these circumstances, therefore, you are directed to ask and to press for the redress claimed by Mr. Van Bokkelen, or, if the amount to be paid can not be imme-

diately agreed upon, for a reference of the question to an arbitrator, so that the case may be disposed of without unnecessary delay.

I am, etc.,

T. F. BAYARD.

To this Mr. Thompson, who had succeeded Mr. Langston, made the following reply:

Mr. Thompson to Mr. Bayard.

LEGATION OF THE UNITED STATES,
Port au Prince, Hayti, November 3, 1888.

SIR: I have to inform you of the death of Mr. Charles A. Van Bokkelen, who died on the 1st instant, at 2 o'clock in the afternoon, aged thirty-seven years. He was buried on the 2d instant, many Americans and foreigners following the remains to their last resting place. I attended the funeral, and it was a fact worthy of note that a sincere feeling of sadness at his death and sympathy for his wife and two small children seemed to pervade all present.

I had entered his claim against the Haytian Government to the sum of $113,000, some time before his death, and will continue to press the same, as advised by the Department.

I am, etc.,

JOHN E. W. THOMPSON.

Subsequent negotiations between the two Governments have resulted in an agreement to submit the claim to arbitration.

THE QUESTIONS TO BE ARBITRATED.

Two questions arise on the facts:

1. Was Van Bokkelen entitled, by the terms of the treaty between the Republic of Hayti and the United States, concluded November 3, 1864, to be discharged from prison on the same terms as a citizen of Hayti imprisoned for the same cause?

2. If there has been a violation by Hayti of the treaty rights of Van Bokkelen, what should Hayti pay to the United States, by way of damages, for the benefit of the representatives of the deceased?

The first question submitted by the two Governments for the decision of the referee is contained in the first article of the protocol of May 24, 1888, and is in the following words:

It having been claimed on the part of the United States that the imprisonment of Charles Adrian Van Bokkelen, a citizen of the United States, in Hayti, was in derogation of the rights to which he was entitled as a citizen of the United States under the treaties between the United States and Hayti, which the Government of the latter country denies, it is agreed that the questions raised in the correspondence between the two Governments in regard to the imprisonment of the said Van Bokkelen shall be referred to the decision of a person to be agreed upon, etc. (English text, article I).

Comme il a été soutenu de la part des États-Unis que l'emprisonnement de Charles Adrain Van Bokkelen, citoyen des États-Unis, en Haïti, a eu lieu en dérogation des droits qui lui appartenaient comme citoyen des États-Unis, d'après les traités entre les États-Unis et Haïti, ce qui nie le Gouvernement du dernier État, il est convenu que les questions soulevées dans la correspondance entre les deux Gouvernements au sujet de l'emprisonnement du dit Van Bokkelen, seront référées à la décision d'une personne qui sera désignee, etc. (French text, article I).

It appears clearly from the language of article 1, that the subject-matter of this arbitration is the imprisonment in Hayti of Charles Adrian Van Bokkelen, a citizen of the United States, by the authorities of Hayti.

The contention of the complainant Government is that said imprisonment was in derogation of Van Bokkelen's rights as a citizen of the United States under the treaties, and the answer of the defendant Gov-

ernment, while admitting the American citizenship and the fact of imprisonment of Van Bokkelen by the authorities of Hayti, denies that his imprisonment was in derogation of treaty rights. The contention of the complainant Government is based upon the language of articles 6 and 9 of the treaty between the United States and Hayti, concluded November 3, 1864.

The defendant Government does not deny the existence of the treaty or the guaranty of the rights and privileges which it solemnly announces. But the substance of the contention on the part of the defendant Government is that this right or privilege of free access to the tribunals of justice in Hayti is defeated and nullified by the language and force of article 794, Civil Code of Procedure, and article 569, section 2, Code of Commerce. This contention has been sustained by the courts of first and last resort of Hayti, and has been proclaimed by the Executive of Hayti.* Under this decision of the courts and executive of Hayti, Van Bokkelen was imprisoned in the common jail for nearly fifteen months.

Counsel on behalf of defendant Government submit various propositions of fact and law, from which they proceed to argue, which are founded upon or connected with the preliminary proceedings and pleadings in the courts of Hayti anterior to the judgment and decrees of the Haytian courts. These propositions refer to a multitude of defenses, nearly all of which were regularly interposed in defense in the court of the first instance and the court of last resort. But all these several defenses have been withdrawn from the referee as a result of the action of the courts of Hayti, resting their decisions upon a single specific ground (which has been accepted by the contracting parties as the sole question now at issue), and which has been submitted to the decision of the referee. (Protocol, May 24, 1888.)

In this view of the case the referee is not at liberty to go behind the situation and enter upon an original inquiry as to whether the schedule (*bilan*) was regularly prepared and submitted; whether the circumstances of the case indicated fraud on Van Bokkelen's part; whether a Haytian citizen, under similar circumstances, would have been discharged from imprisonment upon making a judicial assignment, etc. And if, at any time, I shall incidentally advert to such matters, it will be because it seemed unavoidable in the particular connection in which it occurs.

I proceed now to consider various contentions of counsel for the defendant Government.

The first brief, which is entitled a "brief on behalf of the defendant Government in support of demurrer," insists:

1. That the language employed by Van Bokkelen in the proceedings before the tribunals at Port au Prince in April, 1884, in which he describes himself as an American citizen by birth, "residing at Port au Prince and domiciled at New York, United States of America," "defines exactly the international status of claimant."† In answer to this suggestion it may be admitted that the general proposition is substantially correct. It is taken to mean that Van Bokkelen was a citizen of the United States at the time of the occurrence out of which his claim against Hayti arose; but it is not understood that Van Bokkelen's description of himself as "residing at Port au Prince and domiciled at New York," has any other or further significance than to place him within the guaranties of protection of articles 6 and 9 of the treaty of

*Exhibit No 4, pp. 32–34; Foreign Relations, 1885, pp. 449, 535–536.
† First brief of counsel for defendant Government, page 3.

November 3, 1864. It is to be observed, however, that "the international status of claimant" must be determined not by description, but by the facts of his case. As a matter of fact, the American citizenship of Van Bokkelen has never been questioned.

2. The contention of counsel for defendant Government that Van Bokkelen, during the years 1882 and 1883, was a merchant doing brokerage business at Port au Prince may be conceded. And the recital of the details of the litigation in preliminary suits between Van Bokkelen and his various creditors may be accepted as correct without having any controlling influence upon the determination of the claim now submitted to the referee.*

3. Counsel for the defendant Government argue "that only one ground of error was assigned and pressed" by Van Bokkelen on his appeal upon the judgment of the civil court to the court of cassation, while the judgment of the lower court disclosed the fact that "at least twelve questions of law or fact were raised by the various pleadings of the parties."† And counsel say that Van Bokkelen "sought to reverse the said judgment upon one sole ground, namely, that article 794 of the Code of Civil Procedure and article 569 of the Code of Commerce excluded aliens from the operation of the laws regulating the *cessio bonorum*, and that said articles were contrary to articles 6 and 9 of the treaty between the United States and Hayti."‡

In answer to this suggestion, it seems only necessary to say that the court of first instance and the court of last resort based their final decision on the single ground stated by them.

It may be added that by the very language of the protocol, the single ground upon which Van Bokkelen "assigned and pressed" his appeal to the court of cassation has been adopted as the very question constituting the subject-matter of this arbitration. In this view the anterior and intermediary proceedings, whether by way of diplomatic intervention, or as the result of the various procedures of the local courts of Hayti, can not be held to have any controlling influence so far as the result of the present arbitration is concerned.

In a word, the protocol, which must be the guide and grant of jurisdiction for the referee, crystallizes and formulates the substantial grounds of past discussion and controversy in a single, definite issue, and furnishes the rule of decision. The issue presented by the protocol is whether the acts of the authorities of Hayti in respect to Van Bokkelen, a citizen of the United States, were in derogation of his rights as such citizen, and the rule furnished for the decision of the question raised by the issue are the treaties between Hayti and the United States.§

4. The contention of counsel for defendant Government is that "full faith and credit must be given to the tribunals of Port au Prince."‖

In answer to this point reference is made to what has just been said in reply to the first point. It may be added that the ground of complaint made by the complainant Government is that the judgment of the Haytian courts is in contravention of treaty stipulation, which the defendant Government denies. And to decide this very issue, the question has been, by consent of the contracting parties, referred to international arbitration.

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* First brief of council for defendant Government, pages 4, 5, and 6.
† First brief of council for defendant Government, pages 6 and 7.
‡ First brief of counsel for defendant Government, page 7.
§ Protocol, May 24, 1888, article 1.
‖ First brief of counsel for defendant Government, page 8.

The position of the defendant Government as to this point would, if admitted, preclude any examination or decision by the referee; and would result in making the referee simply the register or recorder of the acts and decrees of the local courts of Hayti. This may not be, for the reason that the Protocol imposes upon the referee the decision of the question raised in the correspondence * and found in the record. For a rule and guide for his decision, he is referred to the treaties between Hayti and the United States. And for the interpretation of treaty language and intention, whenever controversy arises, reference must be had to the law of nations and to international jurisprudence. It is a general maxim, when it is a question of international controversy, that neither of the contracting parties has a right to interpret a treaty according to its own fancy.†

5. Another argument of counsel for defendant Government is, that a citizen of Hayti, who intends to avail himself of the benefit of judicial assignment (*cession de biens*), must establish affirmatively that he has been unfortunate and that he has acted in good faith. This point is elaborated with much detail, both in the brief accompanying the note of the Haytian Minister,‡ addressed to the Secretary of State of the United States, August 15, 1887, as well as in the brief now under consideration. The answer to this proposition and argument is that all this may be conceded without its having any influence upon the present controversy, and for this reason: The acts of the judicial tribunals and of the executive of Hayti, of which the complainant Government complains, are rested upon different and independent grounds. And these grounds are that Van Bokkelen was not permitted free access to the tribunals of Hayti on the same terms as citizens of Hayti. And as has been before stated, the referee is confined to the decision of the single specific question presented by the terms of the Protocol.

6. The further contention of counsel for the defendant Government § is that the jurisprudence of France, Belgium, and Hayti has constantly "maintained a distinction as between aliens and citizens, and have held that aliens have enjoyed natural rights, but that they were excluded from civil rights." The answer to this proposition is, that if any such distinction between what are here styled "natural" rights and "civil" rights existed in Hayti, they were abolished in respect to citizens of the United States commorant in Hayti at the time of the occurrences herein complained of, by virtue of articles 6 and 9 of the Treaty of November 3, 1864. It is not, therefore, necessary to enter into any consideration as to the nice distinction between natural, civil, and political rights. These terms, however, have a well-understood meaning in the law of nations and in modern international jurisprudence. In addition to protection to life, liberty, and property, the class which exercises *political* rights in a community participates in the governing power either by themselves or representatives. The class which enjoys *civil rights* is equally entitled to protection to life, liberty, and property; but the individuals composing it can not exercise political rights under any claim founded simply upon possession of civil rights. But the record and correspondence clearly show that the extent of Van Bokkelen's claim was a demand, formally and regularly submitted to the tribunals and to the executive power of Hayti, that he might be admitted to the enjoyment of those strictly

* Protocol May 24, 1888, article 1.
† Vattel, book 2, chapter xvii, page 265.
‡ Hon. Stephen Preston.
§ First brief, page 16.

civil rights guarantied to him by the Treaty of November 3, 1864. And it would appear that even in Hayti the exercise of "civil" rights is independent of the exercise of "political" rights; and that the capacity of a citizen resides in the combination of civil and political rights.*

7. The counsel for defendant Government submit that, "under the civil law nothing short of a clear, positive treaty stipulation can enable an alien to claim the exercise of civil rights." All this may be admitted, and yet the concession would not avail the defendant Government upon the case under consideration, and for the following reasons:

(*a*) It is here a question of international and not civil law.

(*b*) And a "clear, positive treaty stipulation" does by express language enable an alien, if he be a citizen of the United States and within the jurisdiction of Hayti, to claim the exercise of civil rights.†

8. Counsel for defendant Government make a point that at one time Van Bokkelen described himself as "*domiciled* in New York."‡ It can not be perceived how that fact, although it should be conceded—which it is not—could be held to except him from the guaranties contained in the treaty. The American citizenship of Van Bokkelen being conceded by the terms of the Protocol, the question of domicile cuts no figure in the case.

9. Counsel for defendant Government insist that the true meaning of the second section of article 6 of the Treaty of November 3, 1864, is disclosed by "careful examination of article 794 of the Civil Code of Procedure and article 569, section 2, of the Code of Commerce."

Counsel say that the second section of article 6 of the treaty is simply intended to secure to Americans, against any possible repeal, the rights guarantied them by said articles of the codes, and the construction given them by the Haytian courts.§ The answer to this suggestion is obvious. It is negatived by the very language of article 1 of the Protocol of May 24, 1888. And the guaranty of enjoyment of civil rights (*i. e.*, the admission to the tribunals of justice) by citizens of the United States resident or domiciled in Hayti on the same terms with native citizens was not limited to time, but was to avail them during the existence and operation of the treaty.

By provisions of article 42, Treaty of November 3, 1864, the treaty was to "remain in force for the term of eight years, dating from the exchange of ratifications; and if one year before the expiration of that period neither of the contracting parties shall have given notice to the other of its intention to terminate the same, it shall continue in force, from year to year, until one year after an official notification to terminate the same, as aforesaid." It is not denied that this treaty is still in force.

Counsel for the defendant Government seek to restrain and confine the treaty guaranty of "free access to the tribunals of justice" to very narrow limits; and it is insisted that this clause could work no change in the laws of Hayti, either general or special; and it is said that "the meaning of the words free access, used in the treaty," constituted a guaranty of free access to courts "*upon the same terms as the civil law and a constant practice provided for them.*"‖ But the answer and denial to that proposition is contained in the language of the treaty itself, which provides the conditions, namely, "*on the same terms which are granted by the laws and usage of the country to native citizens.*" And the connection in which this language occurs makes the inference irre-

* Civil Code of Hayti, article 2.
† Articles 6 and 9, Treaty of November 3, 1864.
‡ First brief of defendant Government, page 18.
§ First brief of counsel for defendant Government, page 19.
‖ First brief of counsel for defendant Government, page 21

sistible that it included all the steps and processes of the judical tribunals of either of the contracting parties.

10. Counsel for defendant Government lay great stress upon the declaration that "American citizens sojourning, residing, or trading in Hayti," must be held to conform to the municipal laws of Hayti.* There can be no question but that such an obligation was imposed upon all citizens of the United States in Hayti. But, in this case, there is no complaint that Van Bokkelen, in respect to this matter, did not yield obedience to the municipal laws in operation in Hayti, except as they were modified or repealed by treaty stipulations. And the converse of the proposition is equally true, namely, that American citizens sojourning, residing, or trading in Hayti are under the protection of public law, and the treaty stipulations to which Hayti and the United States are the contracting parties.

11. Counsel for defendant Government devote much space to the consideration of the nature and character of the proceeding known as judicial *cessio bonorum.*† And it is submitted "that the application made to the court, to be admitted to the benefit of *cession de biens* can not be regarded in the light of a suit to enforce a right." To this it may be replied that no such contention is presented in this controversy. In the view of the referee, the judicial *cessio bonorum* does not appear to be in the nature of an independent suit. On the contrary, it is, as I shall further on indicate, a dependent process or step in the ordinary procedure.

12. It is further submitted on behalf of defendant Government, that at the utmost, "argument that the second section of article 6 of the treaty has repealed the provisions of civil law discriminating against aliens in the matter of judicial *cession de biens*, rests upon a repeal by implication of the aforestated articles of the code of civil procedure and of the code of commerce."‡

It may be conceded that the cases agree in saying that repeals by implication are not favored. But the very authorities cited by counsel hold that in case of positive repugnancy between the provisions of new laws and those of the old, the former operate to repeal the latter.§

In the case under consideration, the provisions of the municipal codes of Hayti, or rather the interpretation sought to be put upon them by counsel for defendant Government, are absolutely repugnant to the stipulations in the treaty of a later date.

13. It is further contended that if the subdivision of paragraph 2 of article 6 implies the repeal of articles 794 and 569 of the code of civil procedure and the code of commerce, "it would just as well mean that the fundamental distinction underlying the whole system of civil law, as it exists in France or Hayti, has been repealed by implication, and that at best a few obscure words, which referred exclusively to remedies and not to rights, inserted in the treaty stipulation, operate as a repeal of important parts of the whole municipal legislation of Hayti."‖

It is not perceived that such a result would follow, and it is not understood that the contention of complainant Government extends to make any such claim or demand that would result in revolutionizing the judicial system of Hayti. On the contrary, as has been indicated, the whole scope and effect of the guaranty clauses in articles 6 and 9 of the treaty of November 3, 1864, stipulating for "free access to the tribunals

* First brief of counsel for defendant Government, page 23.
† First brief of counsel for defendant Government, page, 25.
‡ First brief of counsel for defendant Government, page 27.
§ State *vs.* Hall, 17 Wall., U. S., 424–430; Crow Dog, 109 U. S., 555–570; Arthur *vs.* Homer, 96 U. S., 137, 140; Harford *vs.* U. S., 3 Cranch, U. S., 109.
‖ First brief of counsel for defendant Government, page 29.

of justice" of the respective states, is to place the citizens of Hayti and the citizens of the United States, as to the administration of justice, upon the same footing. It is not clear what force there is in the suggestion that the guaranties in the treaty stipulations must be confined to "remedies" and not to "rights." For, whether free access to the tribunals of a country for the purpose of prosecuting or defending a suit be described as a remedy or as a right, is unimportant. It is in this relation a matter of description rather than of substance. It is the proceeding with which we are concerned, and not the name of it. The right or privilege to make a judicial assignment, under appropriate circumstances, involves the application of a remedy recognized by the law of Hayti.

"Remedies," says Mr. Justice Story, "are part of the consequences of contracts." * It is laid down by the same author as a general rule, "that all foreigners, *sui juris*, and not otherwise specially disabled by the law of the place where the suit is brought, may there maintain suits to vindicate their rights and redress their wrongs." † It is true, that until the treaty of November 3, 1864, went into operation, citizens of the United States, in common with other aliens, were excluded by the letter of the municipal law from the benefits of the judicial assignment. But from the date of the exchange of ratifications of that treaty, the benefit of the right or the remedy of judicial assignment was accorded to citizens of the United States. "Free access to the tribunals of justice, etc.," means a right to stand in court, either voluntarily as plaintiff or involuntarily as defendant; and after appearance, the suitors or parties litigant must have a right to invoke all the usual, ordinary, and necessary processes of the tribunal, whether it be for purposes of prosecution or by way of defense. In the case under consideration Van Bokkelen was arraigned before the local courts of Hayti, in some of the suits at least, *in invitum;* and as an incident of compulsory process he was imprisoned. Being within the jurisdiction and power of the Haytian court, the treaty stipulations were intended to secure to him, a citizen of the United States, the right to avail himself of all the instrumentalities and processes of the tribunals of justice.

11. It is further contended on behalf of defendant Government that article 9, treaty November 3, 1864, must be construed in the light of the civil law, and certain provisions of the Haytian civil code in regard to the transmission of property.‡

But the protocol makes the treaties between the United States and Hayti the sources of reference for the guidance of the referee. And consequently the obligations and covenants of a reciprocal character, which are contained in these treaties, constitute the supreme law as between the complainant and defendant Governments.§ In the view which the referee has taken of the question submitted to him, the stipulations and guaranties contained in article 6 of the treaty are in themselves sufficient to justify the claim of Van Bokkelen to stand in justice in the courts of Hayti on the same terms with native citizens. However, it does not seem to the referee that the cumulative force of the stipulations in article 9 in respect to the transmission of property can be lessened by the argument of the defendant Government insisting upon a restrictive interpretation of the latter article. The construction sought to be put upon article 9 is cramped, narrow, and forced.

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* Conflict of Laws, section 337.
† Conflict of Laws, section 565.
‡ Brief of counsel for defendant Government, pages 31–33.
§ Protocol, article 1.

15. It is insisted on behalf of defendant Government that "the whole scope and purpose of the treaty was plainly not to abrogate any law, but to recognize all existing laws in either country and subject the temporary resident to the operation and protection of these laws." *

The answers to this proposition are obvious. The temporary resident was already subject to the operation and the protection of the laws of the respective countries; but this protection was unequal. In the United States the Haytian citizen could not, in the absence of contumacious fraud, be denied the privilege of making a judicial assignment, or what was equivalent to it, for the benefit of his creditors; nor could he be imprisoned, under the circumstances in which Van Bokkelen was held in bodily confinement. In Hayti, on the contrary, prior to the treaty of November 3, 1864, a citizen of the United States was liable, by the letter of the Haytian statutes, to be summarily arrested and imprisoned for an indefinite period of time, and was excluded from the benefit of judicial assignment. It was to remedy this and other inequalities that articles 6 and 9 were incorporated into the treaty. And their immediate effect and purpose was to relieve the citizens of either of the contracting parties from odious and harsh discrimination of the local laws and to place them on the same footing. If the contention of the defendant Government should be admitted, it would render null and void the stipulations of articles 6 and 9. The object of the treaty, as expressed in its opening paragraph, is "to make lasting and firm the friendship and good understanding which happily prevail between both nations, and to place their commercial relations upon the most liberal basis." The articles defining the reciprocal rights of citizens of each of the two nations residing and doing business in the territory of the other will be hereafter noticed.

16. In regard to the suggestion on behalf of defendant Government, charging Van Bokkelen with falsehood and fraud, because his representations in regard to his financial condition were different at different times, it may be said that there is no proof in the record that Van Bokkelen was endeavoring, or had ever attempted, to keep back or conceal anything or reserve any benefit for himself. And the different estimates which he is charged with having made at different times may be easily reconciled with his changed status and the condition in which he found himself. But whatever presumptions may have availed against Van Bokkelen during the preliminary proceedings in the court of first instance, they may not, in the absence of positive proof, have any force or weight in the consideration of the question now under arbitration. The courts of Hayti and the executive have nowhere rested their action denying to Van Bokkelen the right to make a judicial assignment upon any charge or suggestion of fraud or informality in these proceedings. And the starting point for the decision under this arbitration must be the action of the courts and the executive of Hayti.

17. Counsel for the defendant Government say the "second section, article 6, opens the courts of the country to the alien upon the same terms as they are opened to native citizens; *but it does not change or propose to change any rights pertaining to American citizens.*" And it is insisted that the repeated references to the laws and usages of the country must be taken to mean that American citizens possess no rights in Hayti except those which are specified in the municipal statutes. And the contention then is, that the rule of interpretation which is to be applied in this case is that laid down by M. Pradier Fodéré:† "Lastly,

* First brief of counsel for defendant Government, page 39.
† Cours de droit diplomatique, Vol. II, p. 457.

treaties and conventions must be construed in the light which agrees with *public order* established among the contracting nations, and more particularly with their principles of *public law* and with the organization of their jurisdiction; *in case of doubt, and unless there are irrecusable proofs, the construction which is in harmony with the civil and public laws of France must prevail over that which would create a privileged and exceptional right.*"

It is not perceived how the contention can be sustained which insists that the treaty does not change or propose to change any rights pertaining to American citizens, when, in view of the language of the treaty, its stipulations provide for the guaranty and protection and vindication of the rights of the citizens of the contracting parties on the same terms. The position of defendant Government does not receive any support from the citation from M. Pradier Fodéré, for the reason that the author is referring to the "*public order*" and the "*civil and public laws*," and not to *special* or *private* rights and remedies.

M. Pradier Fodéré further on says:

Il est donc manifeste qu' aucune des nations n'a le droit d' interpréter à son gré les conditions obscures du contrat, ou d'en déléguer l'examen à ses tribunaux, pas plus qu'il n' est loisible à la partie qui a consenti une convention synallagmatique d' interpréter elle-meme, ou de faire interpréter par un mandataire à son choix, les clauses obscures ou ambigues que contiendrait cette convention.*

18. It is further insisted that it is "upon the claimant to establish as an affirmative proposition that the treaty of 1864 between the United States and Hayti has repealed the provisions of articles 794 of the Code of Civil Procedure and 569 of the Code of Commerce." This contention has been considered elsewhere in this opinion at some length.

Three cases decided by the court of cassation in France, at long intervals of time, are principally relied upon by counsel for defendant Government in support of the contention that articles 6 and 9 of the treaty may not be interpreted to abrogate or repeal the municipal statutes in repugnance or conflict therewith. The first and most important is the case of Napier and others *vs.* The Duke of Richmond,† which is cited in support of the contention that "diplomatic treaties must be construed in the light where they are in harmony with public and civil law in use among the contracting nations." This decision, which was rendered on the 24th of June, 1839, holds that treaties between nations are not of the character of simple administrative and executive acts, but that they possess the character of laws; that the courts are competent to interpret treaties between nations on the occasion of private (individual) contests which refer to the particular treaties; that when a treaty has stipulated for the giving up to an alien of immovable property located in France and subject to its authority, the courts are competent to decide whether this giving up, after (agreeably to) the treaty, should operate to the benefit of a single alien heir who is mentioned in it, or of all the heirs, in the proportion of their hereditary rights and interests; that in the interpretation of diplomatic treaties the judges should prefer an interpretation which agrees with the common law and the public law of France to that interpretation which conflicts with these principles; that, in particular, the treaty of 30th of May, 1814, which, in one of its additional articles, decides first, that the withdrawal of the sequestration or embargo levied by the decree of Berlin of the 21st of November, 1806, upon the d'Aubigny tract of land belonging to the Third Duke of Richmond; second, that the restitution to the nephew of the

* Cours de Droit Diplomatique, Vol. II, p. 457.
† Journal du Palais, year 1839, Vol. II, p. 2 *et seq.*

latter should not be considered as a grant of said land in favor of this one alone conformably to the law of primogeniture recognized in England, and to the exclusion of all others having equal right, title, or interest, but this grant must be executed with reference to the succession of the Third Duke of Richmond, so that this tract of land should be divided among all those entitled in succession in accordance with the rule established by the Civil Code under the title "Successions."

It is to be observed in the first place of this decision, that the subject-matter was real (immovable) property within the territory and jurisdiction of France, and the court rendering the decision was a court of France. The rule is familiar, that the law which governs as to real (immovable) property is *lex rei sitae;** and under application of this rule the French court, in a controversy between conflicting individual interests, used the language which occurs in this decision, and which has been copied by the Civil Court of Port au Prince as applicable to the question in controversy in Van Bokkelen's case.

As the civil court of Port au Prince, and the court of cassation of Hayti, in stating the rule which must govern in the interpretation of treaty language, have quoted and relied upon isolated expressions of the court of cassation of France in pronouncing judgment in Napier *vs.* Duke of Richmond, it will be necessary to consider the latter case with some particularity.

The subject-matter in Napier *vs.* Richmond was a tract of land described as the d'Aubigny tract, situated in the jurisdiction of France. Like many other estates belonging to the Crown of France it had been granted to a foreign family. This grant reached back to the year 1422, having been made by Charles VII in favor of one of the Stuarts of Scotland, who had rendered signal service to France in her wars with England. In the year 1673 this grant was renewed by Louis XIV in favor of the Duchess of Portsmouth, a French lady, in the language of the grant, to be enjoyed by said duchess, and after her decease, by such one of the natural sons of King of Great Britain whom he might designate, and the male descendants in direct line of this natural son. This grant, which evidently, says the court of cassation of France, had for its object to win over Charles II to the interests of Louis XIV, does not, however, present in appearance any political character. Charles II designated as the successor of the Duchess of Portsmouth a natural son whom he had by her, named Charles Lennox, who took the title of First Duke of Richmond.

He enjoyed until his death possession of the d'Aubigny tract, and transmitted it successively to his eldest son and to the eldest of his grandsons, second and third dukes of Richmond. This property underwent all of the vicissitudes of the French wars and revolutions. Confiscated during one of the said wars of succession it was restored by the treaty of Utrecht; confiscated again in 1792, during the wars of the revolutions, it was restored at the peace of Amiens. Finally, having been confiscated for the third time in 1806, it was again restored by the treaties of 1814 and 1815. When, by the decree of Berlin of 21st of November, 1806, the French Government, availing itself of reprisals against England, declared as good prize all the properties belonging to Englishmen in France, the d'Aubigny tract was occupied by Charles Lennox, third duke of Richmond, who had taken possession in 1750. This duke died on the 19th of December, 1806, without issue, leaving four sisters and the children of a full brother, who died before him, one of whom took the title of the fourth duke of Richmond, who was the

* Story: Conflict of Laws, §§ 364-367, 424, 428, 463.

father of the defendant in this case. This condition of things continued until the treaty of peace of the 30th of May, 1814, the fourth article of which stipulated in general terms for the withdrawal of confiscations of the war. However, a secret clause of this treaty added:

The confiscation of the Duchy of d'Aubigny and the property which belongs to it will be raised, and the Duke of Richmond placed in possession of the property such as it is now.

A royal ordinance of the 8th of July, 1814, the terms of which reproduced textually those of the secret clause, and an order of the prefect of Cher, of the 3d of August following, were forwarded to the fourth duke of Richmond, who was then in France at the head of a division of the English army, putting him in possession of the d'Aubigny tract. His possession was confirmed by a *procès-verbal* of the 30th of November, 1814. The natural heirs of the third Duke of Richmond, who did not live in France, being advised later of their rights, addressed themselves in 1830 to the French courts to demand from the fifth Duke of Richmond, who had succeeded his father in 1819, a division of the d'Aubigny tract, as belonging to the succession of the third duke. To this demand was opposed notably the provision of the secret clause of the treaty of 1814, insisting that it contained a special derogation from article 4 of this treaty which prescribed in a general way the raising of the confiscations of the war. The heirs replied that this article 4 and the secret clause should be interpreted one by the other; that it was proper to reconcile their provisions; that the second was only a confirmation of the first, and that it was not reasonable to regard this secret clause as a private and exclusive grant for the benefit of the feudal heir of the third duke. In this condition of the respective claims of the several parties the tribunal of Sancerre having had the controversy submitted to it rendered judgment on the 9th of July, 1834, which decreed the partition of the d'Aubigny tract.

Among other reasons assigned for this judgment were the following:

As to the second question raised in the argument, that by the literal text the previously dated treaty raised the confiscation affixed to the d'Aubigny tract, and stipulated for the restoration of the property to the Duke of Richmond; that although by this denominative expression could not be understood the third duke, against whom the confiscation had been affixed, since the plenipotentiaries must have known that this duke, their colleague in the cabinet and in the House of Lords in England, had been dead nearly eight years, it must be understood that the grant was in fact to his heirs, according to this maxim, *Hæres substinet personam defuncti;* that, moreover, if the treaty did not say that in default of the third duke, his representatives should be called to receive the benefit, it was because in a previous article it was stated in a general and absolute manner that the principle of the restoration was in favor of the former proprietors or their heirs, and that this general provision applied to the Duchy of d'Aubigny neither more nor less than to the other cases of restoration; that the confiscation of the d'Aubigny tract, by virtue of the decree of Berlin of 21st of November, 1806, must be considered as a spoliation, and that the treaty of Paris of 1814 stipulated for the restoration of this tract to the proprietor or to those having a right, but that it was not possible to regard the terms of this treaty as expressed as a personal statute and as a reward to the fourth Duke of Richmond; that the restoration of the property would not have been complete if it did not result to the benefit of those having a right or claim to it; that the treaty of 1814, understood in such a restricted sense, would not have been a restoration—a reparation—but the maintenance and continuation of an unjust spoliation, which, however, the high contracting parties declared that they wished to put an end to after the military events which had provoked them; that whereas the succession of the third Duke of Richmond was opened 19th of December, 1806, but at that time the law of the 25th of October, 1792, had abolished all kinds of substitution, and that this succession, so far as property situated in France was concerned, was governed by French laws, agreeably to article 3 of the civil code; and that it devolved or descended in five parts to the brothers and sisters of the deceased or to their representatives, in accordance with the terms of article 750, civil code; that in the treaty of the 30th of May, 1814, there is no ex-

pression that leads to the belief that there was any abrogation of a legislation which had become fixed in our customs or any failure or omission of national dignity which would have resulted in subjecting property situated on the soil of France to the rules of English legislation.

The above decree or judgment of the tribunal of Sancerre was brought by the Duke of Richmond on appeal to the royal court of Bourges, which rendered its decision on the 11th of March, 1835, reversing the judgment of the tribunal of Sancerre. From this decision an appeal was taken by the heirs of the fourth Duke of Richmond to the court of cassation of France. When the case came before the court of cassation, the eminent lawyer, M. Dupin, then attorney-general for the Government, made an elaborate argument in support of the position of the heirs of the fourth Duke of Richmond and in defense of the decree of the tribunal of Sancerre.

The court of cassation of France reversed the decision of the court of Bourges, sustaining in substance the decree of the tribunal of Sancerre, as well as the main argument of the attorney-general. In announcing its judgment the court of cassation, among other propositions, held:

On the first branch of the argument: Whereas the defendant having been summoned to make partition of the d'Aubigny tract and to restore the fruits and allowances received by him, as well as by the fourth Duke of Richmond, has opposed, as the principal exception or objection, a secret clause in the treaty of the 30th of May, 1814, to this effect: "The confiscation affixed to the Duchy of d'Aubigny and on the property which belongs to it shall be raised, and the Duke of Richmond shall be placed in possession of the property such as it is presently;" that the defendant has drawn from this clause the consequence that he had been invested with the exclusive property of this immovable by the diplomatic convention of 1814, and the complainants having disputed this interpretation, the first question to decide in the case is that relative to the true sense and effect of the stipulation above cited; whereas the tribunals having jurisdiction of the action were necessarily competent judges of the exception or objection, since they were not prohibited by any provision of law; that the defendant without avail invokes the principle which forbids the judicial authority to interpret administrative acts; that the treaties between nations are not simple administrative and executive acts; that they possess the character of law and can not be applied and interpreted but in the forms and by the authorities intrusted with applying all the laws within their jurisdiction whenever disputes which give rise to this interpretation have private interests for their object; that the action of complainants, founded upon their character as heirs, raised the questions of private succession and of property, which is allotted by the law to the judicial power; whereas the decrees attacked instead of pronouncing judgment on the questions determining the true sense of this clause, which was never published nor inserted in the Bulletin des Lois, declared that the royal court had not the right to seek out the sense of the treaty, and that the complainants should go before the competent authority who executed this act before availing themselves of their character, pretended or real, as heirs in equal proportion of the third Duke of Richmond; that it resulted from these reasons that the royal court refused to pronounce judgment as well on the principal action and as to the title of the heirs, which was the main question, as also on the exception and the meaning of the clause; that it referred all the points of which it was regularly seized to another authority, which it did not indicate; that the complainants would be deprived by this dismissal of all means of obtaining a legal decision upon their demand; whereas the royal ordinance of the 8th of July, 1814, and the prefect's decree of the 3d of August following are only acts in execution of the treaty and of the obligations which article 4 of the additional clauses imposed upon each of the contracting powers to raise several confiscations which had been affixed; that moreover these acts, which did not add anything to the treaty, and with which they are identified, can not be considered as acts belonging to the exercise of the administrative power, cognizance of which was forbidden to the tribunals.

As to the second branch of the argument: Whereas the decrees denounced, after having in their reasons declared the incompetency of the tribunals and referred to another authority, had meanwhile decided that the complainants could not sustain their action, for the reason that the treaty invested the defendant with the property of the immovable claimed by them; that the reasons for these decrees and their provisions imply a contradiction; that they have, in addition, ignored: First, the text of the laws which govern immovables situated in France and their transmission to

the heirs; second, the true meaning of the treaty and of the secret clause; third, the rules established by the Civil Code for the interpretation of conventions; finally, the d'Aubigny tract, being situated in France, was governed, as to the succession of the Third Duke of Richmond, by the law of France; that substitutions were abolished and the privilege of the oldest male was suppressed, and that the heirs of this duke were entitled to receive this property in equal portions, and that they were invested with it by the mere operation of law; that the defendant can not invoke the law of nations to claim the grant of an exclusive right; that the transmission of property by way of succession is governed by the civil law of each State; whereas, if the text of this stipulation left any doubt of its true meaning, it would be disposed of by the rules of law in reference to the interpretation of conventions; that the first is to seek out the common or ordinary intention of the contracting parties, rather than to stop at the literal meaning of the terms; that it is impossible to suppose that the intention of the plenipotentiaries was to regulate the law of succession between co-heirs; to grant to one the whole property in the estate or land to the exclusion of the others, without any indemnity whatever to these latter; that this grant to the Fourth Duke of Richmond alone would have been in derogation of French legislation, and would have created in France a property or estate governed by privileged and exceptional law; that such an intention, which would be in opposition to all the provisions of the treaty, can not be admitted without unexceptionable proofs; that it would have been expressed in positive terms if it had existed; that all the clauses should be interpreted one by the other so as to give to each the meaning which results from the whole text, and the secret clause should be understood in the sense of a restoration to the one who was entitled, or to his heirs, in accordance with the spirit of the treaty; that diplomatic treaties should be understood in the sense which places them in accord with the civil and public law recognized by the contracting parties; that the interpretation given to the clause by the decrees which are attacked put them in opposition to all the laws, the civil as well as the public law, of France. That in not designating by name which Duke of Richmond should be placed in possession, the clause could only have had in view the one who was dispossessed, or his representatives; that in admitting the fourth duke to restoration it was for the benefit of his co-heirs as well as for himself. It results from the considerations which precede, that the decrees which are attacked for refusing to take into consideration the rights of the parties in accordance with the interpretation of diplomatic conventions, and in deciding that the apparent text of these conventions had dispossessed the heirs of the Third Duke of Richmond of their rights to the d'Aubigny tract, have violated and misapplied the laws above cited.

It seems to the referee that the above exposition of facts and of law which were involved in the case of Napier *vs.* The Duke of Richmond, and the decision of the court of cassation of France thereon, make it clear that the case does not justify the use or application which the Haytian courts have attempted to make of it by incorporating in their judgments isolated expressions, which are withdrawn from the context in the decision of the former case. The court of cassation of France simply decided that they would not put such a construction upon treaty language as would result in the abrogation of the law of descent of France in respect to real (immovable) property; that as to such property the *lex rei sitæ* governed; and that it was impossible to suppose that the intention of the plenipotentiaries was to abrogate the laws of descent of France in this respect, and that such an intention would be in conflict with all the provisions of the treaty.

In the view taken of that case there does not seem to be room for complaint or criticism. And there is no evidence that the action of the Government of France, as expressed in the decree of its supreme court, has been ever excepted or objected to by Great Britain. If, however, Great Britain had considered that as a consequence of this decree injustice had been done to one of her citizens, or a treaty stipulation had been violated by France, she would, no doubt, have made it the subject of international settlement.

The second case cited by counsel for defendant government in this connection is Challier *vs.* Ovel, which was decided by the court of cassation of France on the 17th of March, 1830.* The extent to which the

* Journal du Palais, year 1830, page 272.

court went was to hold that, although article 22 of the treaty of the 24th of March, 1760, between France and Sardinia,* had abrogated a principle sanctioned by article 121, ordinance 1629, as also by articles 21–23 and 21–28 Civil Code and 646 Code of Procedure, it did not follow that the execution of these judgments rendered by the Sardinian tribunals should be decreed in France, when they were contrary to the maxims of the *public law of France* or to the *public order of jurisdiction*, and that in refusing to decree in France the execution of the judgment and decrees rendered in the cause by the Piedmontese tribunal, the decree attacked only conformed to the principles of the public law, *and did not violate either the treaty of* 1760 *or any law.*

Challier *vs.* Ovel was a case where a citizen of France, having been arraigned before one of the courts of Sardinia, demurred to the jurisdiction of that court, and claimed exemption from suit in the foreign jurisdiction, insisting that he could only be sued in the jurisdiction of his domicile, which was France. The Sardinian court, notwithstanding his plea, proceeded with the cause and rendered judgment against him. It was such a judgment against a citizen of France so obtained that the court of cassation of France declined to put into execution. This case has nothing in common with Van Bokkelen *vs.* Hayti.

The third case cited by counsel for defendant government in this connection is Alberto Balestrini *vs.* Aubert and others.† The conclusion reached was, that international treaties are not simple administrative acts; that they may be applied and even interpreted by judicial authority, when it is a question of convention having for their object individual interests.

The case of Balestrini *vs.* Aubert presented a controversy between contesting associates, one of whom had a concession under the provisions of a treaty which gave him a right to establish and operate a telegraph line under a new system of electric cable between France and the United States. The contest was as to the respective interests of these several associates, and the provisions of the grant or concession in the treaty came thus for consideration incidentally before the court. It was in such a case that the court of cassation of France held that the stipulations of a treaty could be applied and interpreted by judicial authority whenever it was a question of agreements or conventions having private or individual interests for their object. It must be perceived that there is no similarity between that case and the one under consideration.

The *ratio decidendi* in all these cases is very plain. It is this, that the judicial tribunals of a country, when called upon to decide controversies between individuals which grow out of or are dependent upon treaty stipulations, will not hesitate to construe the language of those treaties according to the rules of law which apply to all instruments. They will construe the provisions so as to give effect to rather than to defeat the intention of the contracting parties; and they will reconcile apparent conflicts of particular parts by reference to the context in which they occur and to the whole instrument. They will not impute to the plenipotentiaries in the negotiation of a treaty an intention which is in conflict with the fundamental law of the State. They will not lend their sanction to execute a treaty stipulation when it is in violation of the fundamental law of the jurisdiction; and they do this upon the ground that it is beyond the competency of the treaty-making power

*Wencke, Codex Juris Gentium, Vol. III, p. 226.
† Journal du Palais, year 1873, pp. 37 and 38.

to enter into stipulations which are in conflict with the public law or the public policy of the jurisdiction.

The treaty-making power is necessarily and obviously subordinate to the fundamental laws and constitution of the State, and it can not change the form of the government or annihilate its constitutional powers.*

This language has been used by distinguished American jurists in reference to the Government of the United States. It applies equally to the public policy and limitations of all constitutional states.

In every civilized state two divisions of law are recognized: First, the law which regulates the public order and right of nations, which is *jus publicum*; second, the law which determines the private rights of men, which is called *jus civile*.† The law of procedure (the adjective law) is distinguished from the fundamental law of a state, and includes remedial law, which is a law whereby a method is pointed out to recover a man's private rights or redress his private wrongs.‡ And the instrument by which the individual vindicates his rights and remedies his wrongs is an action or suit at law. In this sense an action is not a right; but it is the means which the law affords for pursuing the right. "*Actio non est, jus sed medium jus persequendi.*"§

"I consider," says Lord Bacon, "that it is a true and received division of law into *jus publicum* and *jus privatum*, the one being the sinews of property, and the other of government."‖ Law defines the rights which it will aid, and specifies the way in which it will aid them. So far as it defines, thereby creating, it is "substantive law." So far as it provides a method of aiding and protecting, it is "adjective law" or procedure.¶

It would seem to be clear from the cases decided by the court of cassation of France, heretofore cited, that the decisions do not sustain the position taken by the Haytian courts and by the counsel for defendant Government. In the case under consideration Van Bokkelen petitioned the court for the purpose of availing himself of the law of procedure guarantied to him by the treaty. The pretension that articles 6 and 9 of the treaty of November 3, 1864, contained any stipulation that was violative of the fundamental law of Hayti is without any foundation.

The article (1054, civil code of Hayti) which Van Bokkelen invoked for his protection belongs to the law of procedure or the adjective law of Hayti. And the article 794 Haytian code of civil procedure) and article 569 (Haytian code of commerce), which the Haytian authorities opposed in denying Van Bokkelen's petition, are also a part of the law of procedure or adjective law of Hayti. They do not form a part of the constitutional, fundamental, or national law of Hayti. And the attempt by the judicial and executive authorities of Hayti to characterize a simple judicial assignment as an institution of civil law, or an institution of civil right, in the sense intended, is a misuse of language and a misapplication of terms.

The counsel for defendant Government invite attention to "the leading English case on this subject," upon which they place some reliance.** This was an action between private litigants upon several policies of in-

* Story: Commentaries on the Constitution of the United States, Vol. III, section 1508; Kent's Commentaries, Vol. I, pp. 167 and 287, notes.
† Tomlin's Law Dictionary, word "Law."
‡ Blackstone's Commentaries, Vol. I, p. 53.
§ Austin, Jurisprudence, Vol. II, sec. 1034, p. 183, citing Heineccius.
‖ Preparation towards the Union of Laws, Works, VII, p. 731.
¶ Holland, Jurisprudence, 75.
** Marryat *vs.* Wilson, 1 Bosan and Puller, p. 430, et seq.

surance on a certain ship and cargo, upon which the defendant in error had effected insurance. While on a trading voyage ship and cargo were captured by a British squadron, and thus became a total loss to the owners and insurers. Demand was then made by the insured upon the insurer to make good his proportion of the loss so incurred. He refused to do so, and when sued, set up the defense that the voyage on which ship and cargo were lost was illegal. On the trial before King's Bench and Exchequer Chamber it was admitted that the voyage was illegal and *unless* it was within the protection of certain articles of the treaty between Great Britain and the United States, concluded the 19th of November, 1794. Defendant insisted that the voyage was not within the letter of the treaty, and therefore it was illegal. But the Exchequer Chamber held that the voyage was within the spirit, though not the letter of the treaty; and, in deciding the case, used the language quoted in the argument for defendant Government.*

Chief-Justice Eyre, in deciding the case, said:

> There may be reason to apprehend that this treaty will open a door to many of our own people whom the policy of our laws has shut out from a direct trade to the East Indies. In truth, it can hardly be expected that the spirit of commerce too often found eluding laws made to keep it within bounds, that the *lucri bonus odor* should not embark British capital in this trade. This ought to have been foreseen, and therefore I conclude it was foreseen, and that it was found that the balance of advantage and disadvantage preponderated in favor of the treaty. If not, those who advised it will have to answer for it; responsibility is not with us. We are not even expounders of treaties. This treaty is brought under our consideration incidentally as an ingredient in a cause in judgment before us; we only say how it is to be understood between the parties to this record.
>
> This we are bound to do; we have but one rule by which we are to govern ourselves. We are to construe this treaty as we would construe any other instrument, public or private. We are to collect from the nature of the subject, from the words and from the context, the true intent and meaning of the contracting parties, whether they are A and B, or happen to be two independent states. The judges who administer the municipal laws of one of those states would commit themselves upon very disadvantageous ground—ground which they could have no opportunity of examining—if they were to suffer collateral considerations to mix in their judgment on a case circumstanced as the present one is. * * * Whether the trade should have been conceded under any qualifications or restrictions is one thing; it having been conceded, now to attempt to cramp it by narrow, rigorous, forced construction of the words of the treaty is another and a very different consideration. We can not suppose that an indirect advantage was intended to be reserved to the East India Company by so framing the treaty that the *American* trade might by construction be put under disadvantage, because this would be chicanery unworthy of the *British* Government and contrary to the character of its negotiations, which have been at all times distinguished by their good faith to a degree of candor which has been supposed sometimes to have exposed it to the hazard of being made the dupe of more refined politicians. The nature of the trade granted, in my opinion, fixes the construction of the grant. If it were necessary to go further, strong arguments may be drawn from the context of this article and the contrast, which the comparing it with the preceding article will produce.†

Far from advancing the argument of counsel for defendant Government, the conclusions and the reasoning of the Chief-Justice in Marryat *vs.* Wilson are strongly opposed to the contention of the defendant Government, and sustain the position of the complainant Government in this case. Marryat *vs.* Wilson is strong authority for the proposition that the municipal tribunals of a country may not nullify the purpose and effect of treaty language by imposing upon it a cramped, narrow, and forced construction. And it is to be observed that in the case before the Exchequer Chamber, the judgment of the court sustaining interpretation of treaty stipulations which would give effect to the spirit, if not to the letter of the treaty, was rendered in a case where

* First brief of consul for defendant Government, p. 37.

† Marryat *vs.* Wilson, 1 Bosan and Puller, pp. 435 and 436.

the beneficiaries were aliens, that is, citizens of the United States; and in denial of defenses set up by British subjects before one of the superior courts of Great Britain.

It is to be noted that these several decisions of the highest courts of France and Great Britain, which are cited and relied upon by the defendant Government on this branch of the argument, are cases in which the conclusions of the courts were in support of the protective and private property rights of individuals. The result of all these decisions was to work out substantial justice between the parties. In the case under consideration, the result of the judgments of the Haytian courts and the action of the Executive of Hayti was to defeat the efforts of Van Bokkelen to protect himself from wrong and injustice, and to secure to himself rights plainly guarantied to him, in common with all other citizens of the United States, by the treaty.

Counsel for defendant Government cites a decision of the Supreme Court of the United States,* referred to as the head-money cases, to the effect that so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognizance in the United States, it is subject to such acts as Congress may pass for its enforcement, modification, or repeal.

On this point there is not room for much controversy. But an act of the Congress of the United States in derogation of treaty rights has always been held to be a ground for diplomatic intervention. In the case under consideration, the converse of the proposition announced by the Supreme Court in the head-money cases is presented. Here the collision or conflict is between provisions contained in prior municipal statutes of Hayti and stipulations of a treaty between the United States and Hayti of a subsequent date. The rule is universal that a prior statute is repealed by a subsequent statute which is absolutely repugnant; *leges posteriores priores contrarias abrogant.* The same principle applies when a municipal statute and a treaty stipulation is in competition. A treaty stipulation of a later date repeals a prior statute with whose provisions it is repugnant. And the reverse of the proposition is maintained by the Supreme Court of the United States.† In the head-money cases the Supreme Court of the United States laid down the following propositions:

A treaty is primarily a compact between independent nations. It depends for the enforcement of its provisions on the interest and the honor of the governments which are parties to it.

If these fail, its infraction becomes the subject of international negotiations and reclamations, so far as the injured party chooses to seek redress, which may in the end be enforced by actual war. It is obvious that with all this the judicial courts have nothing to do and can give no redress. But a treaty may also contain provisions which confer certain rights upon the citizens or subjects of one of the nations residing in the territorial limits of the other, which partake of the nature of municipal law, and which are capable of enforcement as between private parties in the courts of the country. An illustration of this character is found in treaties which regulate the mutual rights of citizens and subjects of the contracting nations in regard to rights of property by descent or inheritance, when the individuals concerned are aliens. The Constitution of the United States places such provisions as these in the same category as other laws of Congress by its declaration that "this Constitution and the laws made in pursuance thereof, and all treaties made or which shall be made under authority of the United States, shall be the supreme law of the land." A treaty, then, is a law of the land as an act of Congress is, whenever its provisions prescribe a rule by which the rights of the private citizen or subject may be determined. And when such rights are of a nature to be enforced in a court of justice, that court resorts to the treaty for a rule of decision for the case before it, as it would to a statute.‡

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*Edye *vs.* Robertson, 112 U. S., p. 580.

† Foster *vs.* Neilson, 2 Peters, U. S., p. 314. Taylor *vs.* Morton, 2 Curt., U. S., p. 454. Hauenstein *vs.* Lynham, 100 U. S., p. 483.

‡ Edye *vs.* Robertson, 112 U. S., page 433.

It will be seen from the above review of the several arguments on behalf of defendant Government, that many of the propositions which are still strenuously urged in defense are addressed to the consideration and support of subsidiary and collateral issues which are, by the terms of the protocol, excluded from the consideration of the referee.

THE TREATY OF NOVEMBER 3, 1864.

It becomes, therefore, necessary to examine the provisions of the treaty upon which complainant Government relies in its intervention on behalf of Van Bokkelen, and to the application of which defendant Government objects.

Section 2, article 6, stipulates:

The citizens of the contracting parties shall have free access to the tribunals of justice, in all cases to which they may be a party, on the same terms which are granted by the laws and usages of the country to native citizens, etc.

Les citoyens des parties contractantes auront libre accès près les tribunaux de justice dans toutes les causes où ils seront intéressés, aux mêmes conditions que les lois et les usages du pays font aux nationaux, etc.

In view of the explicit language in both texts, it would seem clear that the guaranty to the citizens of contracting states of "free access to the tribunals of justice, in all cases to which they may be a party, on the same terms which are granted by the laws and usages of the country to native citizens," means that they shall be entitled to the exercise of all the processes of the courts of the respective countries, whether they concern rights or remedies. And the extent to which these processes of the courts may be invoked is expressed in language equally free from doubt: "On the same terms which are granted by the laws and usages of the country to native citizens." It is not denied that a citizen of Hayti in the situation which Van Bokkelen was, would have been entitled to release from imprisonment upon making a judicial assignment. Indeed, the language and reasoning of the Haytian courts and of the Executive of Hayti admit as much.

Article 9 stipulates:

The citizens of each of the high contracting parties within the jurisdiction of the other shall have power to dispose of their personal property by sale, donation, testament, or otherwise; and their personal representatives, being citizens of the other contracting party, shall succeed to their personal property, whether by testament or *ab intestato*. They may take possession thereof, either by themselves or by others acting for them, at their pleasure, and dispose of the same, paying such duty only as the citizens of the country wherein the said personal property is situated shall be subject to pay in like cases, etc.

Les citoyens de chacune des hautes parties contractantes auront, dans la juridiction de l'autre, la faculté de disposer de leurs biens mobiliers par vente, donation, testament, ou autrement; et leurs successeurs, citoyens de l'autre partie contractante, pourront hériter de leurs biens mobiliers soit par testament, soit *ab-intestat*. Ils pourront en prendre possession soit par eux-mêmes, soit par des tiers agissant pour eux, comme ils le voudront, et en disposer sans payer d'autres droits que ceux auxquels sont assujettis, dans les mêmes circonstances, les citoyens du pays, où sont situés les dits biens mobiliers, etc.

There would seem to be no ambiguity in the language of these articles; and the best way to construe them is to follow the words thereof.

But the civil court of Port au Prince, and the court of cassation affirming the decision of the civil court, denying Van Bokkelen's petition to execute a judicial assignment, decide that there is nothing in articles 6 or 9 of the treaty of November 3, 1864, which guaranties to Van Bokkelen, or any citizen of the United States, the right to release from imprisonment upon the execution of a judicial assignment conformably

to the terms of the civil procedure of Hayti. The civil court decided, among other things, that the "reason which causes the exclusion of foreigners is that the benefit of an assignment has always been regarded as *an institution of civil law* which should benefit native citizens only;" and "it is impossible to suppose that it was the intention of the contracting plenipotentiaries to abrogate or modify, by article 9 or by article 6 of the treaty, as those articles are worded, article 794 of the civil code of procedure and article 569 of the code of commerce, which exclude a foreigner from the benefit of making an assignment;" and further, that "whereas, although the text of this stipulation (article 9), and even that of article 6, which grants to the citizens of the two contracting parties free access to the courts of justice, in all cases in which they shall be interested, on the same terms that are granted by the laws and usage of the country to native citizens, might leave some doubt with regard to their true meaning, it would be dispelled by the rules of law concerning the interpretation of conventions which are applicable to treaties;" and this court then proceeds as follows:

Whereas the first of these rules is to seek out the common intention of the contracting parties rather than to be guided by the literal meaning of the terms.*—[Translation.]

From this decision of the civil court of Port au Prince, rendered May 27, 1884, Van Bokkelen appealed to the court of cassation, which rendered its decision, affirming the decision of the civil court, on February 26, 1885, almost a year from the time Van Bokkelen was first imprisoned.

The court of cassation, affirming the judgment of the civil court, held:

Whereas the judicial assignment of property is an *institution of civil right*, the articles 769 (794) of the Code of Civil Procedure and 569 of the Code of Commerce, excepting foreigners from the benefit of this institution, since they do not exercise in Hayti all rights, they can only enjoy privileges derived from natural rights or of mankind, and not those which are derived from purely civil law.†—[Translation.]

If, as I shall hereafter endeavor to show, the judicial assignment (*cession de biens*) is simply a step in the procedure of the courts in bankruptcy proceedings, it is not perceived how the description of it "as an institution of the civil law" can have the effect of withdrawing it from the guaranty expressed in the treaty grant of "free access to the tribunals of justice," unless it was excepted in terms from the treaty stipulations.

Of the decree of the court of cassation, affirming the decision of the

* Exhibit No. 4, pp. 32 and 33.

† Whereas nowhere in the treaty of friendship, of commerce, of navigation, and of the extradition of fugitive criminals, concluded November 3, 1864, between the United States of America and the Republic of Hayti, is to be found that it confers upon the citizens of these two countries the right to exercise the judicial assignment of property, there can be concluded from the terms of articles 6 and 9 of the treaty nothing which would authorize the opinion that this right could be invoked in the United States by a Haytian, or in Hayti by an American. In consequence thereof, Americans can not enjoy in Hayti such civil right, the enjoyment of which is attached exclusively to the quality of a Haytian. That in stipulating that "the citizens of the contracting parties should have free access to the courts of justice in all cases, wherein they may be interested, on the same conditions that the laws and usages of the country give to their citizens, furnishing security required in the case," this provision of the article (6) was not intended to grant to the citizens of these two nations the enjoyment of civil rights which do not attach (except) to citizens.—[Translation.]

civil court of Port au Prince, it is to be observed that the latter court follows substantially, though not literally, the reasoning of the former.*

A careful reading of the decree of the court of cassation indicates that the court has, in its attempt to justify the authorities of Hayti, indulged in the same peculiar reasoning as the civil court of Port au Prince; and it is consequently open to the same criticism.

The extreme to which the court has gone in search of reasons to justify its judgment indicates the absence of that good faith which should characterize the interpretation of treaty stipulations. And in view of the language of articles 6 and 9 of the treaty of November 3, 1864, it is difficult to understand by what process of reasoning the court reached the conclusion that a citizen of the United States, within the jurisdiction of Hayti, "*Can only enjoy privileges derived from natural rights or of mankind, and not those that are derived from purely civil law.*"

Equally illogical and untenable is the reasoning of the court of cassation in holding that nowhere in the treaty of November 3, 1864, is there to be found a provision which may be held to confer upon the citizens of the contracting States other and additional rights; *i. e.*, full right to exercise the "judicial assignment" of property. Under the public law or law of nations aliens enjoy purely natural rights in whatever State they may be. And in the absence of any treaty, a citizen of the United States would have enjoyed natural rights in Hayti; but the terms of the treaty of November 3, 1864, stipulate, in effect, that such citizen shall further enjoy civil rights.

The court of cassation, although admitting that the treaty stipulates that "the citizens of the contracting parties should have free access to the courts of justice, in all cases wherein they may be interested, on the same conditions that the law and usages of the country give to their citizens, furnishing security required in the case," maintains "that this provision of article 6 is not intended to grant to the citizens of these two nations the enjoyment of civil rights."

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* The court of cassation holds that—

"Whereas the judicial assignment of property is an institution of civil right, the articles 769 (794) of the Code of Civil Procedure and 569 of the Code of Commerce, excepting foreigners from the benefit of this institution, since they do not exercise in Hayti all rights, they can only enjoy privileges derived from natural rights or of mankind, and not those which are derived from purely civil law.

"Whereas nowhere in the treaty of friendship, of commerce, of navigation, and of the extradition of fugitive criminals, concluded November 3, 1864, between the United States of America and the Republic of Hayti, is to be found that it confers upon the citizens of these two countries the right to exercise the judicial assignment of property, there can be concluded from the terms of articles 6 and 9 of the treaty nothing which would authorize the opinion that this right could be invoked in the United States by a Haytian, or in Hayti by an American. In consequence thereof, Americans can not enjoy in Hayti such civil rights, the enjoyment of which is attached exclusively to the quality of a Haytian. That in stipulating that 'the citizens of the contracting parties should have free access to the courts of justice, in all cases wherein they may be interested, on the same conditions that the laws and usages of the country give to their citizens, furnishing security required in the case,' this provision of the article (6) was not intended to grant to the citizens of these two nations the enjoyment of civil rights which do not attach (except) to citizens.

"Therefore it follows from that which precedes that the judgment denounced has made a good and just application of article 769 (794) of the code of Civil Procedure and 569 of the Code of Commerce, and a sound interpretation of the articles 6 and 9 of the treaty above cited.

"For such reasons, and without there being any necessity of passing on the result of non-acceptance raised by the parties, the court rejects the appeal made by Mr. Charles Adrian Van Bokkelen against the judgment rendered May 27, 1884, by the civil court of Port au Prince, orders, in consequence, the confiscation of the fine deposited, and condemns the said Mr. Van Bokkelen to the expenses, liquidated at the sum of ——, not including the cost of the present decree."—[Translation.]

The court of cassation is in error in assuming that the privilege of release of an imprisoned debtor would be denied to the Haytian citizen by the United States courts circumstanced as Van Bokkelen was when he invoked the protection of the treaty. In such a case, assuming that other and ordinary applications for release had failed, the writ of habeas corpus would lie to the courts of the United States, and would avail to secure his release from imprisonment.

In view of the treaty language and terms of the protocol, it is impossible for the referee to sustain the reasoning or the conclusions reached by the civil court of Port au Prince or by the court of cassation. It is not perceived how the nature or character of the remedy or right expressly guaranteed to citizens of the United States within the jurisdiction of Hayti can be withheld from them by describing it, as the judgment of the civil court of Port au Prince does, "as an institution of civil law," or as the decree of the court of cassation does, "an institution of civil right." The "judicial assignment" (*cession de biens*), as I have elsewhere pointed out, is simply an incident or step in the judicial procedure in the courts of Hayti in bankruptcy proceedings. And if it be not included within the guaranty of "free access to the tribunals of justice," the language is without meaning and inoperative. "Free access to the tribunals of justice" that was limited to admission to the courts, without the privilege to plaintiff or defendant of employing the usual, ordinary processes of the court, would be a delusion and a snare. Such an intention or purpose may not, in the absence of plain language, be imputed to the high contracting parties.

The attempt of the courts of Hayti and of the Executive to exclude a citizen of the United States from the benefit of a judicial assignment, on the ground that the treaty of November 3, 1864, makes no mention of it in express terms, does not seem to call for serious consideration. Such a strained objection would only be satisfied by incorporating the body of the Haytian codes in the treaty articles. With equal force and soundness the courts of Hayti and the executive power might have denied this right, remedy, or privilege to Van Bokkelen on the ground that he was not mentioned or particularly named in the treaty. When the treaty said "free access to the tribunals of justice * * * on the same terms which are granted by the laws and usages of the country to native citizens," it included the whole class of citizens, and fixed the terms upon which the laws and usage of the country were to be applied to them.

Among the international rules proposed by the Institute of International Law of Geneva, 1877, with the view to negotiation of international treaties, the following rules, among others, were adopted:

1 *L'étranger sera admis à ester en justice aux mêmes conditions que le régnicole.*

2. Les formes ordinatoires de l'instruction et de la procedure seront régies par la loi du lieu où le procès est instruit. Seront considérées comme telles, les prescriptions relatives aux formes de l'assignation (sauf ce qui est proposé ci-dessous, 2me al.), aux délais de comparution, à la nature et à la forme de la procuration *ad litem* au mode de recueiller les preuves, à la rédaction et au prononcé du jugement, à la passation en force de chose jugée, aux délais et aux formalites de l'appel et autres voies de recours, à la péremption de l'instance.*

Reference is here made to the language of the above rules to show that when an alien is admitted to stand in justice on the same terms as a citizen he must necessarily be entitled to invoke in his behalf all the customary and civil processes of the courts which are open to citizens.

* Lorimer, Institutes of the Law of Nations, Vol. II, p. 530.

JUDICIAL ASSIGNMENT (CESSION DE BIENS).

In view of the fact that the executive and judicial authorities of Hayti have placed their refusal to admit Van Bokkelen to the benefits of the judicial assignment upon the ground that by the letter of the municipal codes of Hayti all aliens are excluded from its privileges, and that it is confined to native citizens, and that it is a civil institution of the state, it becomes necessary to inquire into the real nature and character of the proceeding known as judicial assignment (*cession de biens*). This is of the first importance, because the fallacy in the reasoning of the courts and of the Executive of Hayti and of counsel for the defendant Government consists in attributing exceptional characteristics and functions to the act of judicial assignment.

The provisions of the Haytian code which have been cited are here below inserted.*

There is nothing exceptional, unusual, or extraordinary in this proceeding. It is not, as the language of the courts, of the Executive of Hayti, and the argument of counsel for defendant Government implies, a law unto itself of such supreme authority as to negative the purpose and effect of a treaty stipulation.

The judicial assignment (*cession de biens*) of the Haytian codes is described under title 5 of the Civil Code of Hayti, and of 12 of the Code of Civil Procedure, and title 2 of the Code of Commerce.

There is nothing hidden or mysterious about it; it possesses no cabalistic power. And the execution of a judicial assignment is simply a step in the ordinary procedure and practice of the courts of Hayti. It is a familiar and well-known incident in the jurisprudence of the civil law. The provisions in the Haytian code were transferred bodily from the civil code of France; and France incorporated them in her code from the corresponding title (*cessio bonorum*) of the Justinian code, whence they are traced back to the Lex Julia.†

The Lex Julia, probably passed in the reign of Augustus, at length exempted insolvent debtors from the penalty of imprisonment and infamy, and secured to them the *beneficium competentiæ* or right to maintenance; provided they made an immediate and complete *cessio bonorum* to their creditors.‡

The surrender was made by solemn declaration, either judicial or extrajudicial. The property thus given up was sold and the price distributed among the creditors. The debtor was not released from his debts unless the creditors were fully paid, but he was protected from imprisonment at their instance. If the debtor subsequently acquired property his creditors were entitled to attach it, except in so far as it was necessary for his own subsistence. This latter privilege was called "*exceptio*" or "*beneficium competentiæ.*"

The *Lex Julia de cessio bonorum* introduced a *new procedure* in relation to a bankrupt's estate (*venditio bonorum*), which theretofore was governed by the "*missio in bona.*" §

The rule for the interpretation of treaty stipulations suggested in the judgment of the civil courts of Port au Prince, as has been pointed out,

*Le cession judiciare est un bénéfice que la loi accorde au debiteur malheureux et de bonne foi, à quel il est permis, pour avoir la liberté de sa personne, de faire en justice l'abandon de tous ses biens à ses créanciers, nonobstant toute stipulation contraire. (Article 1054, Civil Code of Hayti.)

* * * Ne pourront être admis au bénéfice de cession *les étrangers*, les stellionataires, les banqueroutiers frauduleux, les personnes condamnées pour cause de vol ou d'escroquerie, ni les personnes comptables, tuteurs, administrateurs et depositaires. * * * (Article 794, Haytian Code of Civil Procedure.)

Ne pourront être admis du bénéfice de cession: 1. Les stellionataires, les banqueroutiers frauduleux, les personnes condamnées pour fait de vol ou d'escroquerie, ni les personnes comptables. 2. Les étrangers, les tuteurs, administrateurs au depositaires. (Article 569, Haytian Code of Commerce.)

†Merlin, Repertoire de Jurisprudence, Vol. IV, pp. 46, etc.

‡Mackenzie: Studies in Roman Law, 1880, pp. 376, 380; Mackeldy: Roman Law, section 523; Colquhoun: Roman Civil Law, Vol. II, p. 351.

§Mackelby: Roman Law, section 523; White: Recopilacion of the Laws of Spain and the Indies, pp. 170, *et seq.*

was taken from its appropriate context in the decision of the court of cassation, in Napier *vs.* Duke of Richmond, which case has been considered. As it is sought to be used in relation to the case under consideration it is without relevance or authority. The language of all the authorities repudiates such a strained and singular construction, whether it be in application to private contracts or to international covenants.

It may be said of the treaty of November 3, 1864, as was said of the Constitution of the United States by Mr. Justice Story, with the approval of Chancellor Kent, that—

> The instrument furnishes essentially the means of its own interpretation.*
>
> The first and fundamental rule in the interpretation of all instruments is to construe them according to the sense of the terms and the intention of the parties. The intention of a law is to be gathered from the words, the context, the subject-matter, the effects and consequence, or the reason and spirit of the law.†
>
> And the only case in which a literal meaning is not to be adopted is limited to the exception when such construction would involve a manifest absurdity.‡
>
> When the words are plain and clear, and the sense distinct and perfect arising on them, there is generally no necessity to have recourse to other means of interpretation. In literal interpretation the rule observed is to follow the sense in respect both of the words and construction of them which is agreeable to common use without attending to etymological fancies or grammatical refinements.§
>
> All international treaties are covenants bona fide, and are therefore to be equitably and not technically construed.‖
>
> The principal rule has already been adverted to namely to follow the ordinary and usual acceptation, the plain and obvious meaning of the language employed. This rule is, in fact, inculcated as a cardinal maxim of interpretation equally by civilians and by writers on international law.
>
> Vattel says that it is not allowable to interpret what has no need of interpretation. If the meaning be evident and the conclusion not absurd, you have no right to look beyond or beneath it, to alter or to add to it by conjecture. Wolf observes that to do so is to remove all certainty from human transactions.¶
>
> Treaties are to be interpreted according to their plain sense.**
>
> Publicists are generally agreed in laying down certain rules of construction as being applicable when disagreement takes place between the parties to a treaty as to the meaning or intention of stipulations. Some of these rules are either unsafe in their application or of doubtful applicability; and rules tainted by any shade of doubt, from whatever source it may be derived, are unfit for use in international controversy. Those against which no objection can be urged, and which are probably sufficient for all purposes, may be stated as follows:
>
> When the language of a treaty, taken in the ordinary meaning of the words, yields a plain and reasonable sense, subject to the qualifications, that any words which may have a customary meaning in treaties differing from their common signification must be understood to have that meaning, and that a sense can not be adopted which leads to an absurdity or to incompatibility of the contract with an accepted fundamental principle of law.††
>
> Treaties of every kind, when made by the competent authority, are as obligatory upon nations as private contracts are binding upon individuals, and these are to receive a fair and liberal interpretation, according to the intention of the contracting parties, and to be kept with the most scrupulous good faith. Their meaning is to be ascertained by the same rules of construction and course of reasoning which we apply to the interpretation of private contracts.‡‡

Applying these rules to the words, the context, and the subject matter found in articles 6 and 9 of the treaty of November 3, 1864, there

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* Kent's Commentaries, Vol. I, p. 243; note citing Story, Commentaries on the Constitution of the United States, Vol. I, pp. 382–442.

† Story on the Constitution of the United States, Vol. I, sec. 400; Blackstone's Commentaries, Vol. I, pp. 59 and 60.

‡ Story on the Constitution of United States, Vol. I, sec. 402, citing authorities.

§ Story on the Constitution of United States Vol. I, sec. 402.

‖ Phillimore, International Law, Vol. II, 3 ed., pp. 94–99, citing authorities.

¶ Phillimore, International Law, Vol. II, 3 ed., p. 99.

** Hall, International Law, p. 281.

†† Hall, International Law, p. 281.

‡‡ Kent's Commentaries, Bk. 1, 13th Ed., p. 175; citing Grotius, b. 2, c. 16, sec. 1; Puff., b. 5, c. 12, sec. 1; Rutherforth's Institutes, b. 2, c. 7; Vattel, b. 2, c. 17; Eyre, Ch. J., in 1 Bos. & Pull., 438 and 439; opinion of Sir James Marryat, cited in Chitty Comm. Law 44.

would seem to be no difficulty in ascertaining their precise intention and meaning.

The infirmity or fallacy disclosed in the reasoning of the decrees of the Haytian courts and in the message of the Executive of Hayti, referring to this case and adopting the views of the courts, is that the judges and President Salomon reason about the competition which exists between the treaty and the municipal law of Hayti, as if the question of relative authority and comparative precedence was between a municipal statute of the United States and a municipal statute of Hayti. In doing this they lose sight of the important fact that the competition is between provisions contained in municipal statutes of Hayti and stipulations in a treaty of subsequent date, to which Hayti is one of the contracting parties. It would seem, from the character of the arguments submitted on behalf of Hayti, that counsel did not fail to recognize this infirmity in the reasoning of the judicial and executive authorities. And this seems to have embarrassed counsel for defendant Government, and accounts for the shifting positions upon which the defense in this case has, at different times, rested. It seems to be forgotten that the operation of treaty stipulations within the jurisdiction of a contracting party is not a foreign interference, nor is it the application of extra-territorial or foreign law. By the constitution and law of Hayti a treaty is a law of the state.

The treaty of November 3, 1864, is within Lorimer's category of the third class of treaties "as sources of international law;" treaties which, among other things, recognize the equal rights of foreigners and natives before the municipal law: *

The value of treaties, as a source of the positive law of nations, is supposed to have been greatly enhanced by the annex to Protocol No. 1 of the conferences held in London in 1871 respecting the clauses of the treaty of Paris of 1856, which have reference to the neutralization of the Black Sea. The protocol is in the following words: "The plenipotentiaries recognize that it is an essential principle of the law of nations that no power can liberate itself from the engagements of a treaty, nor modify the stipulations thereof, unless with the consent of the contracting powers by means of an amicable arrangement."

Some of the inconsistencies in the positions assumed, at different times, by the defendant Government have been pointed out in the brief on behalf of complainant. †

It was first maintained that the case of Van Bokkelen in the Haytian courts was decided only on an exception; that is to say, that the court of cassation, affirming the judgment of the court below, held that Van Bokkelen, being an alien, the said court had no jurisdiction over the subject matter. ‡

At a later date, referring to the decision of the courts, it was argued that "at the utmost the Haytian judges erred in resting their decision upon grounds erroneous, or open to discussion; and the only error, if any, which may possibly be charged to them, was to set forth as a ground for their judgment that Van Bokkelen's case did not fall within the scope of the treaty, *instead of stating simply that petitioner had not taken the steps required to be entitled to the rights guarantied him by said treaty stipulations.*" §

As has been said, "such a decision would, indeed, have created an entirely different situation." ‖

* Lorimer's Institutes of the Law of Nations, Vol. 1, pp. 44, 45.

† Brief of complainant, pp. 19, 20.

‡ Note of Hon. Stephen Preston, minister from Hayti, to Hon. Thomas F. Bayard, Secretary of State of the United States, August 15, 1887.

§ "Statement of Facts and Points of Law," by Hon. Stephen Preston, minister of Hayti, p. 21, *et seq.*

‖ Brief of complainant, pp. 20, 31.

In the second argument or note the Haytian minister maintained that under article 148 of the Haytian code of civil procedure judgment in the Van Bokkelen case was null and void. His first proposition in regard to the action of the court is, that it dismissed Van Bokkelen's case for want of jurisdiction. His second proposition is, that the judgment of the tribunal of Port au Prince must be regarded as a final decision against Van Bokkelen of all the questions raised by the pleadings; and his third proposition is, that Van Bokkelen did not exhaust the legal remedies afforded by municipal law, because, on account of an omission on the part of the judges to "pass upon" all the questions raised, the judgment was null and void, and Van Bokkelen was therefore entitled to the extraordinary remedy known as "*la requête civile.*"*

It is quite clear from an examination of article 148 of the Haytian code of civil procedure, referred to by Mr. Preston, that the judges are not required to "pass upon" all the points raised in the pleadings in the sense of judicially determining them, but only of taking notice or mentioning them in the judicial summary of the proceedings, which in Haytian procedure constitutes the judgment. And one of the objects of this requirement seems to be to furnish evidence to the parties in the judgment itself that none of their points have been overlooked. It further appears that the re-opening of the judgment under that article can be had only "upon the request of those who have been parties, or of those who have been duly brought into court."†

Reference is again made to the conflicting and contradictory positions assumed, at different stages of the proceedings, by the defendant Government, for the purpose of showing how important and necessary it has been for the referee to confine himself to the narrow ground furnished in the single issue suggested by the terms of the arbitration. The language of the protocol necessarily fixed the decision of the Haytian courts and the action of the Executive of Hayti as the starting point for the referee's examination and decision.‡ And the treaties between the nigh contracting parties were made the supreme law for his consideration and guidance.

IN CONCLUSION.

Whether the literal, natural meaning of the language, or the spirit of the treaty of November 3, 1864, or the common intention of the contracting parties be regarded, I am of opinion, first, that the imprisonment of Charles Adrian Van Bokkelen, a citizen of the United States in Hayti, was in derogation of the rights to which he was entitled as a citizen of the United States under stipulations contained in the treaty between the United States and Hayti; second, that the record of the case and the correspondence between the two Governments fails to disclose any extenuating circumstances or sufficient justification for the harsh treatment and protracted imprisonment of Van Bokkelen by the constituted authorities of the Republic of Hayti, notwithstanding the earnest and repeated protests of the representatives of the United States; and I award that the Republic of Hayti pay to the United States, on behalf of the representatives of Charles Adrian Van Bokkelen, the sum of sixty thousand dollars ($60,000).

Witness my hand this 4th day of December, A. D. 1888, at the city of Washington.

ALEX. PORTER MORSE,
Referee.

* Brief of complainant, page 31.

† Note of Third Assistant Secretary of State, page 8.

‡ Decree of the court of Port au Prince, May 24, 1884; decree of the court of cassation, February 26, 1885; annual message of President Salomon; Foreign Relations, U. S., 1885, pp. 499, 535, 536.